

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

**BROWN & WILLIAMSON TOBACCO
CORPORATION, .
Plaintiff,**

VERSUS

CIVIL ACTION NO. 1:95CV76GG

**MERRELL WILLIAMS, ET AL,
Defendants.**

**DEPOSITION OF MERRELL WILLIAMS
Taken September 16 & 17, 1996**

(Condensed Version with Index)

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<p>1 is provable by the fact that the guard, if he is 2 telling the truth, would have a checkout on those 3 particular dates. 4 Now, the time card would be the other 5 evidence that you could show, but we had two time 6 cards. One, the supervisor told us to make out, 7 especially during this period of time, because we 8 were given time off in lieu of pay, in lieu of 9 whatever you want to-- well, the established 10 principle there was, we didn't get overtime. So up 11 to a point, we did get time off. We got that sort of 12 thing. So we actually filled out two time cards. 13 And if there is any question about this, 14 ask Lorraine Harrison. She had a stack of them and 15 she took off for England for a month on the basis of 16 her extra time that she had accumulated over the 17 40-hour mandated labor law. 18 MR. ROYALS: 19 Excuse me. Gordon, do you mind taking 20 the-- concluding this deposition and coming back in 21 the morning? I think Mr. Williams is tired and is-- 22 needs some-- until tomorrow. This has been a long 23 day. 24 MR. SMITH: 25 I have no objection to that. I want the</p>	Page 223	<p>1 he misunderstood the question. He asked me to clear 2 that up. 3 THE WITNESS: 4 And there are a couple of things that I 5 would like to say before, on the record. First of 6 all, I would like to apologize to the court 7 stenographer and to the court for the word "BS" 8 yesterday. And I have not told him yet, but this is 9 something that I wanted to do. 10 And, secondly, I don't know if this is a 11 significant point with you, Mr.-- We've been-- you've 12 deposed me many times and I appreciate the strategy 13 of your body language, but if you don't mind, would 14 you kind of keep a distance from me a little bit? 15 Because I realize that you may not feel that this is 16 intimidating me, but it is, and maybe you do, maybe 17 you don't. But if you do, then-- and you continue to 18 do it, I am going to have to move back this way a 19 little bit. 20 Q. Tell me what you mean. I want you to be 21 comfortable. 22 A. Okay. That's what I thought you didn't 23 want me to be, uncomfortable. 24 Q. I want you to be comfortable. I want your 25 best testimony.</p>	Page 226
<p>1 best testimony that this witness can provide. I want 2 him to be rested and I want his best recollection. 3 MR. ROYALS: 4 Okay. 5 THE WITNESS: 6 I frankly would like to come back 7 tonight. 8 MR. ROYALS: 9 I don't think we should. I think it will 10 be a bad idea. 11 (Deposition recessed at 4:51 p.m.) 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	Page 224	<p>1 A. Well, you have a very high torso, and you 2 tend to move it toward me like this. And it's a very 3 minor point, I realize with you, but it seems to be 4 that you're pressing on me a little bit. 5 Q. I'll try to sit back. 6 A. I like a little social space, a little 7 private space. Either that, or I am going to have to 8 move over here and she may not be able to hear me. 9 Q. I'll try and sit back. I'm not one who 10 sits in one place. I don't sit still very well. 11 I'll do my best. 12 A. If you can, fine. If you can't, I'll move 13 backward. 14 Q. I've got a couple of follow-up matters 15 from yesterday. 16 A. One more thing. May I ask my counsel 17 something? 18 Q. Yes. 19 (Off the record.) 20 MR. SMITH: 21 Q. You were to bring with you today tax 22 returns reflecting payments made by Mr. Scruggs, 23 Ardoin & Tanet and Barton & Williams, as well as 24 documents relating to Island Wind Sailing, 25 particularly with regard to the note that has now</p>	Page 227
<p>1 (Tuesday, September 17, 1996, 9:00 a.m.) 2 MR. ROYALS: 3 Yesterday afternoon, around 5:00, we 4 recessed and I made the observation Mr. Williams was 5 getting tired. 6 I want to clarify a question that he was 7 not understanding. You were asking the question to 8 him-- you were saying, if the time records show that 9 you worked 11 or 12 hours on a weekend day, either 10 Friday or Saturday, are you saying that was a mistake 11 or a fraud? Is that a fair statement of the 12 question? 13 MR. SMITH: 14 I believe it is. 15 MR. ROYALS: 16 Approximately. 17 MR. DURHAM: 18 Except for Saturday and Sunday. 19 MR. ROYALS: 20 A weekend day. He thought you were 21 somehow saying that he was committing a fraud with 22 the time record, and therefore, there was no 23 communication and no answer to the question. That's 24 the reason I asked for-- but he wanted that cleared 25 up, that that's how he understood the question, that</p>	Page 225	<p>1 been paid. 2 Have you got-- did you provide those to 3 your attorney? 4 A. I apologize, but there was just not enough 5 time, Mr. Smith. If we had the time to go to the 6 bank after hours and that sort of thing, I would have 7 done it. I don't have any of that. We didn't even 8 discuss it. 9 Q. You don't have your tax returns? 10 A. I did not bring those because I would have 11 to go to Mr. Leach's office. He was closed. It was 12 just not a convenient time. 13 Q. You don't have your tax returns? 14 A. You asked the question. I answered it. 15 Q. And you don't have any-- you told me 16 yesterday you had Island Wind Sailing documents at 17 your home. 18 A. That is not exactly the case. I did not 19 I found that I did not. And I was pretty tired 20 yesterday. If you will bear with me, you may have 21 them, and Mr. Royals will take care of that later 22 on. 23 Q. That's fine. The reason I had hoped to 24 have them today is I had hoped to complete the 25 deposition during this; however-- this session, but</p>	Page 228

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1 clearly, your tax returns, which will show-- report
2 income from various places, and 1099s and others, as
3 we know, are relevant, as are the Island Wind Sailing
4 documents, and it will require that we come back and
5 continue this deposition at a later date to deal with
6 those issues. That was my only interest in getting
7 them overnight. So, if you can't get them, we'll
8 have the deposition later.
9 A. Mr. Smith, whenever you wish for me to be
10 here, I'll be here for you.
11 (Exhibit 4 was marked.)
12 MR. SMITH:
13 Q. Thank you. Let me show you Exhibit 4,
14 what I've marked as Exhibit 4. And the question is
15 simply this. Is this your handwriting in the first
16 line, under the words, name, company, et cetera? It
17 says, "M. Williams", that line there. Is that your
18 handwriting?
19 A. What is this?
20 Q. The question is, is that your handwriting,
21 starting on the line that says, "M. Williams", and
22 going on across?
23 A. I don't know. It could be.
24 Q. Does it look like your handwriting to you?
25 A. It looks like it, yes.

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1 Q. Okay. Now, this document is the register
2 from the building where you were working on Sunday,
3 February 16, 1992.
4 A. Excuse me. Sunday--
5 Q. February 16.
6 A. February 16, 1992.
7 Q. Right.
8 A. Okay.
9 Q. And it shows that you worked what hours on
10 that Sunday?
11 A. Well, it says in at 9:45 M, and it says,
12 out at 11:35, with a mark which does not look like my
13 mark. It says p.m. And I would say that that is not
14 my P.
15 Q. All right. But are the other numbers
16 yours?
17 A. I don't know. I'll have to look at them
18 again. Also, could we have a calendar so I could
19 check and see if that is a Sunday in 1992?
20 Q. I don't have one.
21 A. Does anybody?
22 Q. Just answer the questions, Mr. Williams.
23 Okay? Is that your handwriting?
24 A. I do not know. I certainly do not believe
25 this P is.

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1 MR. CARROLL:
2 Excuse me, Mr. Williams. If the witness
3 is asking for a calendar-- I don't want to be
4 difficult, but if the witness is asking for a
5 calendar to check whether that document is properly
6 authenticated or not and there is not one available,
7 then we're going to object to the form of the
8 question. You can answer the question, but we do
9 object to the form of the question if the document
10 hasn't been properly authenticated.
11 MR. SMITH:
12 It doesn't have anything to do with
13 authentication, of course, if the date is right or
14 wrong.
15 MR. CARROLL:
16 Well, if you want to argue with me about
17 my objection, Gordon, we can do that. I simply made
18 my objection on the record. I didn't tell him not to
19 answer the question.
20 MR. SMITH:
21 The objection is noted.
22 A. I do not think that this is a legitimate
23 document, and that it is mine, and I would object to
24 saying that I have had anything to do with this,
25 other than this might be my name here. I don't know

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1 the date.
2 Q. Do you think that that's your handwriting,
3 where it says, M. Williams?
4 MR. ROYALS:
5 He's answered that question. He said he
6 thought it was.
7 A. You asked it. I answered it. As far as
8 this other part, I do not know. This is incomplete.
9 That's it.
10 MR. SMITH:
11 Q. Let me ask you a question. Do you deny
12 working from 9:45 a.m. until 11:35 p.m. on February
13 16, 1992?
14 A. Yes, I do.
15 Q. You do?
16 A. I do.
17 Q. So that-- are you saying that you would
18 not have written those numbers in there because you
19 didn't work those hours?
20 A. I'm saying that I did not work those
21 hours.
22 Q. Did you work at all that day?
23 A. I would say that possibly, I did.
24 Q. And what hours do you believe you worked
25 that day?

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1 A. It would have probably been 11:00 a.m.
2 Q. So you think you may have worked 9:45 a.m.
3 to 11:35 a.m.?
4 A. That's correct.
5 Q. Do you remember that or is that what you
6 think just may have happened?
7 A. That may have happened.
8 Q. It wouldn't have been 9:45 p.m. to 11:45
9 p.m.? That wouldn't be likely to be working that
10 late at night?
11 A. It was not possible to work that late at
12 night. It was illegal. The guards would not let you
13 past 7:00.
14 Q. You could not have worked past 7:00?
15 A. I could not have worked past 7:00. I
16 could not have checked out at 7:00.
17 Q. Do you know Chris Gleeson?
18 A. I know the name, but I don't know if--
19 Chris Gleeson was-- do you want me to answer who he
20 is?
21 Q. Do you know Chris Gleeson?
22 A. Yes.
23 Q. He was one of the people working on the
24 same project you were, wasn't he?
25 A. Yes.

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1 Q. It says here that he worked from 2:05 p.m.
2 to 5:45, correct?
3 A. That's what this says.
4 Q. All right. He couldn't have seen you
5 there working during that time, could he?
6 A. No, he couldn't, under that-- if that's a
7 document that's correct.
8 MR. CARROLL:
9 What's that exhibit number?
10 MR. SMITH:
11 It's 4. Do you want to look at it?
12 MR. CARROLL:
13 Well, here. I'll look at it while it's
14 out.
15 MR. SMITH:
16 Q. Who is Franklin Leach?
17 A. CPA.
18 Q. Is he your CPA?
19 A. Yes, he is.
20 Q. How did you meet him?
21 A. Through my therapist.
22 Q. And that's this gentleman who was here
23 yesterday?
24 A. Twice, yes.
25 Q. What's his name?

<p style="text-align: right;">Page 235</p> <p>1 A. Peter Herring. 2 Q. You said yesterday that you began taking 3 documents when you found-- when you saw a document or 4 documents that you believed indicated there had 5 been-- I believe the words you used, payoffs to 6 Congress. Do you recall that testimony? 7 A. Yes, sir. 8 Q. And payoffs to the FTC, correct? 9 A. Yes, sir, in the amount of \$50,000. 10 Q. Without revealing in any way the contents 11 of the document or documents that you saw that you 12 believed showed that, I want you to identify those 13 documents. That is, were they a letter, were they a 14 memo to, from and date. I do not want you to say 15 anything about the contents of the documents. I 16 simply want the identification of the document. 17 A. Would that mean the person to whom the 18 payoff was made and from whom it was made? 19 Q. It would simply mean my ability to 20 identify the document, who wrote it, to who it was 21 to, who it was from, the date and the type of 22 document. That's all I want. I don't want to know 23 anything about the contents of the document. 24 MR. ROYALS: 25 Let me say something here on the record.</p>	<p style="text-align: right;">Page 238</p> <p>1 this deposition is part of that lawsuit. And it's a 2 serious lawsuit. And I think this thing over last 3 night, and I am sitting here under a Kentucky order 4 that keeps me from finding out what the hell we are 5 talking about. 6 When you're asking him about these 7 documents, you can say something about them but not 8 what they really are. I can't defend this man in 9 this lawsuit. I can't make strategy decisions about 10 what we're to do and what we're not to do. 11 So I'm going to direct him to not answer 12 any of those questions, and if you want to compel, I 13 think we just need to go before a judge down here and 14 see if we are going to be able to defend our lawsuit 15 or if we are going to have one hand tied behind us or 16 what. 17 MR. SMITH: 18 Well, I-- you know, that's certainly your 19 prerogative and we'll go in front of the judge if we 20 need to. The question right now is, simply, the 21 document that you related that told you there had 22 been a payoff to Congress, who wrote that document? 23 MR. ROYALS: 24 And I am going to direct him not to answer 25 any questions about those documents until such time</p>
<p style="text-align: right;">Page 236</p> <p>1 It looks to me like we are going to have to have some 2 clarification. I don't see how you can ask a witness 3 to give you an incomplete answer and not put the 4 whole truth of the matter out on the record. Tell me 5 all I want you to tell me but don't tell me anything 6 I don't want you to tell me. Partially identify the 7 document just enough that I think I know what it is, 8 but don't identify it so the court and the rest of 9 the attorneys will know what it is. I don't think 10 you can do that in a lawsuit. I've never been in a 11 lawsuit where you were allowed to do that. 12 MR. CARROLL: 13 We agree and we join in the objection. I 14 think it's a form of the question objection. 15 MR. SMITH: 16 That's not-- we-- 17 MR. ROYALS: 18 I don't think it is a form of the question 19 objection. I think it's an objection to this 20 procedure. I think an election has to be made that 21 the witness can answer the questions or the witness 22 can't. 23 MR. SMITH: 24 Well, I don't think either of us have the 25 option of making that election. I am trying to</p>	<p style="text-align: right;">Page 239</p> <p>1 as we've got permission from somebody or 2 clarification that he can answer completely. 3 MR. SMITH: 4 Okay. And so we won't waste time, let me 5 ask a bunch of questions and have you instruct. 6 Can we agree that any question relating to 7 following up on identification of these documents he 8 talked about, you would instruct him not to answer? 9 MR. ROYALS: 10 Yes. And I am going to ask him to not 11 answer any questions at all about the documents from 12 here on out, any questions. 13 MR. SMITH: 14 Even questions that have nothing to do 15 with the contents of the documents? 16 MR. ROYALS: 17 That's right. Because I-- it puts me in 18 an untenable position, in trying to defend him in 19 this lawsuit. We are talking about something-- 20 documents that I don't know what they are, and if I 21 want him to explain one of your questions, to 22 amplify, to clarify for the record or whatever, I 23 don't even know what the documents are and I can't do 24 that. 25 If there is a-- the whole tenor of the</p>
<p style="text-align: right;">Page 237</p> <p>1 protect this man from breaching the injunction that 2 he is under, which prohibits him from talking about 3 the contents of the documents at issue. It has 4 nothing to do with anything-- trying to hide anything 5 or do anything else. I'm trying to protect him. But 6 just like when you do a privilege log, you can 7 identify a document without revealing the contents of 8 it. That's how we do it under the law. And I am 9 asking him who the document was to, who it was from 10 and what kind of document it was and the date of it. 11 MR. ROYALS: 12 I think we are going to have to go before 13 Mr. Judge Guirola or Judge Gex or somebody down here 14 and get a clarification. I don't see how we can 15 defend a lawsuit where a Kentucky court has got us 16 strapped from letting our witness give a complete 17 answer. 18 MR. CARROLL: 19 I agree with that. 20 MR. SMITH: 21 I am not asking-- I am asking the 22 questions and I am not asking for anything but 23 identification. 24 MR. ROYALS: 25 Well, I'm defending a lawsuit, Gordon, and</p>	<p style="text-align: right;">Page 240</p> <p>1 thing is that he's stealing documents and so forth. 2 Unless I know what the documents are, we just sit 3 here and take a beating under that allegation of 4 theft, with no opportunity to say that these 5 documents were being used in the commission of a 6 crime; therefore, were in the nature of contraband; 7 therefore, did not constitute theft. I don't think 8 any judge is going to make us try this lawsuit like 9 that. 10 MR. CARROLL: 11 Yes. I-- Just for the record, we don't 12 have the authority to tell Mr. Williams-- we, as 13 representing Mr. Scruggs and M&S don't have the 14 authority to tell Mr. Williams not to answer 15 questions, but we don't believe that it is fair or 16 appropriate for us to participate in a Mississippi 17 lawsuit constrained by an injunction from a state 18 judge in Kentucky, in a proceeding to which we were 19 not and are not parties. And so we join in the 20 objection. 21 And I would like to request that we get 22 the court to tell us how we should proceed from 23 here. I mean, I think that's the easiest solution to 24 the problem. 25 MR. SMITH:</p>

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1 Well, we have, of course, produced the
2 documents to you, so there is no confusion about what
3 documents we are dealing with. So I don't know what
4 your objection is.
5 MR. ROYALS:
6 Well, I don't know if those have been
7 produced are the right ones. And most of the
8 documents have not been produced. Most of the
9 documents are under a privilege log of some sort.
10 But then you're asking about, I guess those documents
11 that are contained under your own privilege log and
12 asking Mr. Williams to tell you some of the things
13 about those documents but not all of the things.
14 We answered questions for a good eight
15 hours yesterday, or from 9:00 until 5:00, minus the
16 breaks, in an attempt to complete this deposition or
17 try to complete it and answer questions. But I don't
18 think we can go any further about-- Well, I've
19 already said it. No need to repeat what I've said.
20 MR. SMITH:
21 Do you guys want to talk?
22 MR. ROYALS:
23 Let's take a break and talk for a minute.
24 MR. SMITH:
25 You've stated your position. I understand

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1 your position. Obviously, we have a disagreement.
2 But as to follow-up questions on how did you copy,
3 where did you go to copy, where did you keep them has
4 nothing to do-- contents have nothing to do with
5 that, and I would hope and believe that you wouldn't
6 stop me from going into the logistics of what he did
7 versus anything to do with the documents, themselves,
8 or the contents of them.
9 MR. ROYALS:
10 I think I will stop you from going into
11 anything about the documents because this deposition
12 could be used in a trial. It's a discovery
13 deposition. But let's assume the witness were
14 unavailable or something like that, this deposition
15 could be used in a trial. This witness is not having
16 a chance to fully explain his position. He's being
17 made to look bad on the record with no chance,
18 whatever, to explain his position. I slapped my wife
19 with no chance to explain that she was running into
20 the burning house.
21 And we just go hour, hour, hour after hour
22 with-- and he doesn't get to tell his side of the
23 thing because of some Kentucky court that's got him
24 under an injunction and what that-- what that ain't
25 is fair. It's just not fair to him to have to go

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1 through that. It's not fair to the court not to have
2 all the information.
3 MR. SMITH:
4 Just to make it clear, any question with
5 regards to his removal of the documents, copy of the
6 documents, transfer of the documents, discussion of
7 the documents with anybody else, delivery of the
8 documents, anything to do with the documents, you're
9 not going to let him talk about today?
10 MR. ROYALS:
11 No, sir, not unless we can talk about what
12 the documents were.
13 MR. SMITH:
14 Okay. I am just trying to make sure what
15 your position is, and I've stated it fairly?
16 MR. ROYALS:
17 Yes, sir.
18 MR. SMITH:
19 So I'm not going to ask any of those
20 questions. I am not going to waste the time and we
21 can agree that we have that conflict and I don't have
22 to ask those questions. We've stated it fairly
23 enough that we can take it to the court and deal with
24 it. Can we agree on that?
25 MR. CARROLL:

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1 We can agree on that.
2 (Off the record.)
3 MR. ROYALS:
4 I don't want to beat the record to death
5 and repeat what I've said, and I won't, but I'm not
6 going to-- I'm going to advise my client not to
7 answer any questions about the documents, period,
8 until such time as we have clarification on the
9 motion for criminal contempt pending against him in
10 Kentucky on the theory that the plaintiffs cannot be
11 in a position of compelling him to do what he should
12 do in this court; that is to say, answer questions,
13 while those same-- the answers to those same
14 questions put him in criminal contempt in another
15 court.
16 Secondly, I don't think my client should
17 be compelled to give limited answers about documents
18 and not be able to explain the whole thing, what the
19 documents were, what the contents were, why he thinks
20 they are evidence of fraud or crime.
21 And the reasons for that are, that this is
22 a proceeding. It's a deposition, but nevertheless,
23 it is a court proceeding. This testimony could be
24 used in evidence before a jury, and I don't think
25 this kind of trial, by ambush or constraint, is going

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1 to be tolerated by the courts. I hope not. That's
2 my position.
3 MR. CARROLL:
4 Let me just state our position--
5 MR. SMITH:
6 Could I just clarify one thing before you
7 do that? You mentioned he shouldn't be required to
8 testify because of the criminal contempt issue.
9 Essentially, you're saying you would have him take
10 the Fifth. Is that your point?
11 MR. ROYALS:
12 I suppose I would do it that way. I would
13 do it on that basis and on the basis of the Fifth,
14 and also the basis of just his fairness of his
15 ability to defend himself in this case.
16 MR. SMITH:
17 I understood those two grounds. But I
18 want to make clear that the first one was a
19 self-incrimination point you were making.
20 MR. ROYALS:
21 I would probably raise the Fifth. To be
22 quite honest with you, at this point, I don't know
23 whether the Fifth covers that kind of quasi criminal
24 action or not. I'll look into it. At this time, I
25 can, in good faith, raise it subject to further

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1 looking into it.
2 MR. CARROLL:
3 I just wanted to say, for the record,
4 because I think we will obviously be before a court
5 somewhere in the near future on this. I just want to
6 say, for the record, on behalf of our clients, that
7 we obviously can not-- are not in a position to
8 direct Mr. Williams to answer or not to answer
9 questions; however, our objection to the procedure is
10 somewhat broader.
11 We think that it's unfair to us for this
12 witness to be asked questions and be constrained from
13 answering questions, follow-up questions about the
14 documents that we might want to ask him by Kentucky
15 injunction.
16 For instance, we have pleaded the crime
17 fraud exception to the claimed privilege. Whether
18 these documents evidence crime fraud or not would
19 need to be developed through this witness who
20 presently cannot do that because of the Kentucky
21 injunction and the criminal proceeding.
22 So we think for this matter to go forward,
23 these issues need to be clarified by the court
24 because otherwise, we are going to have to go forward
25 with one hand cuffed behind us, and I don't think the

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1 Mississippi federal courts are going to make us do
2 that. I could be wrong.
3 MR. SMITH:
4 Just to clarify the record and shorten the
5 proceedings, I am going to go over the subject areas
6 I had intended to go into, and if you can confirm you
7 wouldn't let him go into this, we can go on.
8 I understand you will not allow him to
9 answer questions about copying and removing the
10 documents from his place of work, correct?
11 MR. ROYALS:
12 Correct.
13 MR. SMITH:
14 Or storing the documents, recovering them
15 from storage, delivering the documents to Mr. Scruggs
16 or others, you won't let him testify about that.
17 MR. ROYALS:
18 Correct.
19 MR. SMITH:
20 Let me just state for the record that even
21 if our position-- even if the Fifth Amendment applies
22 here, it has clearly been waived by his testimony
23 yesterday and his prior testimony, and I would cite
24 the case of Rogers versus United States, 341-US912
25 for that position.

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1 And, secondly, this is a fact discovery
2 deposition, in which we are asking questions, and we
3 are the ones that get to ask the questions on our
4 side, and there is no basis for instructing not to
5 answer on questions that I am asking on the basis
6 that you have stated. I understand you've made that
7 position. I am just stating our position. We can go
8 on.
9 MR. ROYALS:
10 Okay.
11 MR. SMITH:
12 Q. You live at [DELETED]
13 A. Yes.
14 Q. When did you move into that house?
15 A. Approximately July of 1994.
16 Q. Do you own the house?
17 A. I own the house in the sense of it's in my
18 name.
19 Q. If you went to the--
20 A. It's deeded to me.
21 Q. There is no mortgage on the house, is
22 there?
23 A. No.
24 Q. And the house was deeded to you from M&S?
25 A. M&S Enterprises, yes.

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1 Q. And did you pay any money to M&S when they
2 transferred the house to you?
3 A. No.
4 Q. Have you ever made any payment of any kind
5 on the [DELETED]
6 A. I made a \$1,500 payment and a \$1,000
7 payment.
8 Q. That was earnest money?
9 A. Yes.
10 Q. And where did you get the \$1,500 and the
11 \$1,000?
12 A. It came from the \$3,000 that was
13 originally loaned to me.
14 Q. And that \$3,000 was a loan in cash to you
15 from Mr. Scruggs?
16 A. That's correct.
17 Q. For which there is no note, correct?
18 A. That's correct.
19 Q. And for which there has never been any
20 repayment made?
21 A. To date, no.
22 Q. Is that \$3,000 loan, is that \$3,000 amount
23 reported on any of your tax returns?
24 A. As it is a loan, it is not.
25 Q. Are you sure about that?

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1 A. I'm correct in that.
2 Q. But you own this house free and clear of
3 any liens or mortgages, correct?
4 A. You've asked that. I answered it.
5 Q. I didn't ask liens. That's a different
6 question.
7 A. Sorry. There are no liens.
8 Q. And there is no document of any kind
9 evidencing any debt on the house, correct?
10 A. Not to my knowledge.
11 Q. Did you have a discussion with Mr. Scruggs
12 about the possibility of you purchasing a house?
13 A. No.
14 Q. Did you have a discussion with anyone at
15 Mr. Scruggs' office about the possibility of you
16 purchasing a house?
17 A. No.
18 Q. Did you simply decide that you wanted to
19 purchase a house?
20 A. No.
21 Q. Well, how did it come to be that you
22 purchased a house?
23 A. I didn't. M&S Enterprises purchased the
24 house.
25 Q. Did you have a discussion with anyone

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1 related to M&S about the purchase of a house for your
2 beneficial use?
3 A. Yes.
4 Q. And who did you talk to?
5 A. Mr. Scruggs.
6 Q. So you did talk to Mr. Scruggs about
7 getting a house for your use?
8 A. I've answered that question.
9 Q. And what was the discussion that you had?
10 A. I would like to lease a house.
11 Q. All right. And when did you have this
12 conversation with him?
13 A. I don't remember.
14 Q. Well, it was prior to April of 1994,
15 correct? Or prior to-- perhaps in April?
16 A. One moment, please. Prior to April, sir?
17 Q. When did you have this conversation?
18 A. Could you give me the date again, please?
19 Prior to April--
20 Q. Well, I believe an offer for the house was
21 made on April 26th, 1994. And I guess I was
22 suggesting that it was probably prior to that.
23 A. Could you repeat the question, please?
24 The one that you asked me exactly, prior to April
25 what?

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1 Q. Well, I'll just ask another question.
2 A. Do you want me to answer the first one?
3 Q. I want you to answer what I'm getting
4 ready to ask. Okay? When did you have a discussion
5 with Mr. Scruggs regarding purchase-- the purchase of
6 a house or the lease of a house for your use?
7 A. I don't remember.
8 Q. Was it prior to April 26, 1994?
9 A. One moment, please. To the best of my
10 recollection, no.
11 Q. Did you talk to anyone involved with M&S
12 or Mr. Scruggs or his law firm prior to making an
13 offer on the house with regard to the house?
14 A. I don't remember.
15 Q. Well, did you go look for a house before
16 you had any arrangement or understanding with Mr.
17 Scruggs or M&S with regard to them assisting you in
18 obtaining this house?
19 A. I had, at some point, mentioned that I
20 would like to lease a house. And I don't remember
21 the date. The reasons were my children were coming
22 and my wife was coming down in August. I don't
23 remember exactly the date.
24 Q. Were there any discussions about you going
25 to look for a house with anyone at M&S or Scruggs'

<p>Page 253</p> <p>1 firm?</p> <p>2 A. No.</p> <p>3 Q. Were there any discussions about what</p> <p>4 price range house you should look for?</p> <p>5 A. Yes.</p> <p>6 Q. When were those discussions and what were</p> <p>7 those discussions?</p> <p>8 A. I don't remember dates.</p> <p>9 Q. Well, give me the gist of those</p> <p>10 discussions and who they were with.</p> <p>11 A. The neighborhood was the one that I</p> <p>12 presently live in, and the house ranges are anywhere</p> <p>13 from \$80,000 to \$130,000.</p> <p>14 Q. My question is, what discussions did you</p> <p>15 have with Mr. Scruggs or anyone with M&S or his law</p> <p>16 firm with regards to how much the value of the house</p> <p>17 you were looking at should be?</p> <p>18 A. I don't remember exactly.</p> <p>19 Q. Well, give me the gist of the conversation</p> <p>20 or conversations.</p> <p>21 A. I was prepared to sign a lease for</p> <p>22 property that M&S would purchase, and essentially,</p> <p>23 the house would have to be in good condition, and</p> <p>24 would have to be resalable and that would have to be</p> <p>25 in a safe neighborhood.</p>	<p>Page 256</p> <p>1 Q. Now, did you have these discussions with</p> <p>2 Mr. Scruggs and Ms. Bosarge before you started</p> <p>3 actually looking for a house?</p> <p>4 A. I may have had one discussion with Mr.</p> <p>5 Scruggs. I don't know if I had a discussion with</p> <p>6 Charlene Bosarge.</p> <p>7 Q. You did not have the financial ability to</p> <p>8 purchase this house, did you?</p> <p>9 A. No.</p> <p>10 Q. Did you use a real estate agent?</p> <p>11 A. I did.</p> <p>12 Q. Who is that?</p> <p>13 A. Century 21, Paul Dennis.</p> <p>14 Q. When did you start looking for a house?</p> <p>15 A. If you will give me-- I cannot give you an</p> <p>16 exact date. I don't know.</p> <p>17 Q. Well, how long before you offered a</p> <p>18 contract-- how long before that had you been</p> <p>19 looking?</p> <p>20 A. Wait a minute. Wait a minute. I think I</p> <p>21 can give you a date. Approximately around April</p> <p>22 27th, somewhere in there.</p> <p>23 Q. Well, as I understand it, you made a cash</p> <p>24 offer for a house on April 26th.</p> <p>25 A. That may have been the date.</p>
<p>Page 254</p> <p>1 There were certain limitations on that,</p> <p>2 and it would have to be approximately in the</p> <p>3 neighborhood of the house that I currently occupy.</p> <p>4 Q. And were you given a price range that you</p> <p>5 could look for when you went out to look for a</p> <p>6 house?</p> <p>7 A. No, not a price range.</p> <p>8 Q. Were you authorized to go look for a house</p> <p>9 for your use by Mr. Scruggs or M&S?</p> <p>10 A. I believe M&S wanted to invest</p> <p>11 approximately between \$100,000 and \$130,000.</p> <p>12 Q. How did you know that?</p> <p>13 A. I inquired it to Mr. Scruggs.</p> <p>14 Q. That's the number that Mr. Scruggs</p> <p>15 suggested to you would be appropriate?</p> <p>16 A. I believe that's my recollection. I don't</p> <p>17 remember.</p> <p>18 Q. And were all of the conversations with</p> <p>19 regard to the kind of house, the location of the</p> <p>20 house, the price of a potential house, were those</p> <p>21 conversations had with Mr. Scruggs or anyone else?</p> <p>22 A. There may have been with Charlene</p> <p>23 Bosarge. I don't remember exactly.</p> <p>24 Q. As well as with Mr. Scruggs?</p> <p>25 A. Possibly.</p>	<p>Page 257</p> <p>1 Q. How many days did you look for a house</p> <p>2 before--</p> <p>3 A. One day.</p> <p>4 (Off the record.)</p> <p>5 MR. SMITH:</p> <p>6 Q. So you only looked for houses for a day;</p> <p>7 is that your testimony?</p> <p>8 A. One day, and it was less than a day. But</p> <p>9 within the terms of hours, probably less than 24</p> <p>10 hours.</p> <p>11 Q. Okay.</p> <p>12 A. Prior to my making an earnest money--</p> <p>13 Q. Now, if this was to be-- this was a house</p> <p>14 that was to be bought by someone and leased to you,</p> <p>15 as you understood the transaction going in--</p> <p>16 A. Correct. What is the question? I'm</p> <p>17 sorry?</p> <p>18 Q. Well, I thought I had asked and you</p> <p>19 answered it. As you were looking for a house, you</p> <p>20 understood it was to be a house purchased by someone</p> <p>21 to be leased to you?</p> <p>22 A. That's correct.</p> <p>23 (Exhibit 5 was marked.)</p> <p>24 MR. SMITH:</p> <p>25 Q. Let me show you what I've marked as</p>
<p>Page 255</p> <p>1 Q. Well, you've already talked about some</p> <p>2 conversations with Mr. Scruggs, have you not, about</p> <p>3 the value of the house, for instance?</p> <p>4 A. Have I answered the question?</p> <p>5 Q. Well, the last answer you gave would lead</p> <p>6 me to believe that you only may have had</p> <p>7 conversations with Mr. Scruggs. I simply want to</p> <p>8 confirm that you, indeed, did have conversations with</p> <p>9 Mr. Scruggs with regard to potentially obtaining a</p> <p>10 house for your use.</p> <p>11 A. For my lease, yes.</p> <p>12 Q. Now, you've said lease several times.</p> <p>13 There has never been a lease on that house, has</p> <p>14 there?</p> <p>15 A. Not to my knowledge.</p> <p>16 Q. And you've never made a lease payment,</p> <p>17 have you?</p> <p>18 A. Not to my knowledge.</p> <p>19 Q. So, in fact, the house wasn't bought to be</p> <p>20 leased, right?</p> <p>21 A. No, sir. It was bought to be leased.</p> <p>22 Q. Why wasn't it leased?</p> <p>23 A. I have no answer for that.</p> <p>24 Q. You don't?</p> <p>25 A. The answer is, I don't know.</p>	<p>Page 258</p> <p>1 Exhibit 5, which is a "K" Realty Limited sales</p> <p>2 contract. Do you recognize this?</p> <p>3 A. Exhibit 5? I recognize it. May I have a</p> <p>4 moment, here?</p> <p>5 Q. Sure.</p> <p>6 A. Okay.</p> <p>7 Q. Now, you signed this contract as the</p> <p>8 buyer, did you not?</p> <p>9 A. I did.</p> <p>10 Q. And that's inconsistent with your</p> <p>11 understanding that the house was not to be bought by</p> <p>12 you but by someone else.</p> <p>13 A. Not exactly. I explained to them and they</p> <p>14 knew well enough, and I repeated it often enough that</p> <p>15 this house was to be leased by me. I repeated it to</p> <p>16 the person who I was buying it from, leasing it. I</p> <p>17 was not paying for it. I did not want my credit</p> <p>18 references to be identified in this because I could</p> <p>19 not buy a house. It was obvious that I couldn't buy</p> <p>20 a house. And I didn't want them doing a-- taking my</p> <p>21 money and saying, well, you can't buy a house.</p> <p>22 So essentially, Mr. Dennis was aware that</p> <p>23 I was leasing the house and so was Ruth Gordon or</p> <p>24 whatever her name was.</p> <p>25 Q. Ruth Nelson; is that--</p>

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1 A. Ruth Nelson.
 2 Q. All right. She was the broker.
 3 A. Now, they didn't seem to attach onto that
 4 well enough, but that's exactly what I said and I
 5 made the position very clear.
 6 Q. What do you mean, they didn't seem to
 7 attach on that well enough?
 8 A. Well, I'm not sure they understood it.
 9 But that's just conjecture. My answer has been given
 10 to you.
 11 Q. What leads you to believe that they may
 12 not have understood that?
 13 A. I don't remember. At the time, I made it
 14 clear, I thought, but later, I understand that you
 15 sent some investigators to extract some kind of
 16 information, and I'm not certain what their position
 17 was on that.
 18 But I did ask a few questions later on of
 19 Paul Dennis regarding that, and the investigator who
 20 had presented to them some information. And I have--
 21 I have a feeling that-- I have not seen what the
 22 investigator said, but from the impression that I got
 23 is that the investigator was pressing them to give
 24 answers that were not correct.
 25 Q. Have you seen anything-- any documents or

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1 anything that would support that?
 2 A. No. I inquired if they had any documents
 3 that would support that or other matters dealing with
 4 that. But I made it clear to them that I was leasing
 5 the house.
 6 Q. Okay. So, you made it clear to both Paul
 7 Dennis and Ruth Nelson that you were not, in fact,
 8 the purchaser, although you signed as the purchaser
 9 on the contract?
 10 A. Well, I was putting the money down, and
 11 therefore, it was assumed that I was. But I didn't
 12 want to be put into a position where I would have to
 13 have a credit investigation because I couldn't pass
 14 it.
 15 Q. Well, why didn't you just put the name of
 16 the purchaser down there when you delivered the
 17 money?
 18 A. Well, I didn't know where the money was
 19 going to come from, exactly, other than M&S. And I
 20 thought it might come from a bank. I didn't know.
 21 So I put my name down there. I was paying for it. I
 22 was putting my check down. And it was 8:00 in the
 23 morning. I was leaving for Jackson, as I recall, and
 24 I wanted to consummate it and get it down and see if
 25 they would take the offer.

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1 Q. When Mr. Scruggs provided this \$3,000 in
 2 cash to you that you used for the earnest money for
 3 the house, did he understand that that money was
 4 going to be used as earnest money on a house?
 5 A. I don't know.
 6 Q. Was there any discussion that that might
 7 be a use for which that money should be put with Mr.
 8 Scruggs?
 9 A. Mr. Scruggs was being helpful. I don't
 10 know that that was the point at the time, and I can't
 11 answer for Mr. Scruggs.
 12 Q. Well, my question is simply this. At the
 13 time that Mr. Scruggs provided this \$3,000 in cash to
 14 you, was there any discussion between you and Mr.
 15 Scruggs about the use to which that money should be
 16 put?
 17 A. No.
 18 Q. It could be used for whatever you saw fit,
 19 correct?
 20 A. That's how I understood it.
 21 Q. Now, there is a social security number
 22 next to your name on the second page of the sales
 23 contract. As I read that, it says 463-- I believe
 24 that looks like 04 to me, 6, maybe, 201.
 25 A. That's correct.

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1 Q. That is not your social security number.
 2 A. You're right.
 3 Q. You put down a false social security
 4 number?
 5 A. You're absolutely right.
 6 Q. And why did you do that?
 7 A. Well, first of all, I think it's part of
 8 my privacy. I don't like to put down the correct
 9 social security number.
 10 Secondly, I was not in a position to buy a
 11 house. I was leasing a house. I knew that if I put
 12 my social security number, the first thing they would
 13 do is tap in and check my credit. And they'd say,
 14 well, he can't make an offer and therefore, he's no
 15 good. And the people who were accepting this would
 16 say, oh, well, we can't accept this offer.
 17 Q. Well, now, Mr. Williams, you've said that
 18 you made it very clear to Mr. Dennis and Ms. Nelson
 19 that you weren't the buyer of the house, so why would
 20 you need to put down a false social security number
 21 if they knew you weren't the buyer?
 22 A. As I said, the first issue is privacy. I
 23 make a very strong point of never using my social
 24 security number unless I have to.
 25 Q. So you just use other people's, like

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1 this?
 2 MR. ROYALS:
 3 I'm going to object to that.
 4 MR. SMITH:
 5 I'll withdraw the question.
 6 Q. Have you finished your answer?
 7 A. Yes.
 8 Q. Did you tell Mr. Dennis and Ms. Nelson or
 9 Ms. Nelson who the buyer was going to be?
 10 A. No.
 11 Q. Did you know who the buyer was going to
 12 be?
 13 A. I assumed that it was going to come from
 14 the bank, a bank or M&S Enterprises or the bank,
 15 through M&S Enterprises. I did not know. I don't
 16 know.
 17 Q. Did you have to obtain authority from
 18 anyone before you entered into this sales contract,
 19 anyone from M&S or from Mr. Scruggs or from his
 20 firm?
 21 A. I don't quite understand the question.
 22 Q. Well, I mean, did you sign this contract--
 23 let me withdraw that. Before you entered into this
 24 contract, did you call Mr. Scruggs or Ms. Bosarge or
 25 anyone else and say, I found the house, it's

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1 \$109,600, can I go? Can I sign it?
 2 A. I believe that's correct. I believe I
 3 called Charlene Bosarge or I sent a note by fax. I
 4 am not sure of that.
 5 Q. You either talked to Charlene or sent a
 6 fax to her?
 7 A. Right. Right. I believe she is secretary
 8 of M&S Enterprises.
 9 Q. Did she respond to you?
 10 A. No. At the time, the house was merely--
 11 this was 8:30 in the morning, and I was leaving for
 12 Jackson, and I believe for Kentucky. Yes. I believe
 13 I did go to Kentucky. And I didn't hear anything
 14 back for some time. I don't remember the dates.
 15 Q. Did you fax-- I'm sorry. What did you
 16 tell Ms. Bosarge in this communication, whether it
 17 was by fax or by phone?
 18 A. I don't recall exactly, except there was a
 19 house. It would be purchased at this particular
 20 price. Would you care to purchase it for investment
 21 for the lease.
 22 Q. That's the gist of what you told her?
 23 A. I think that's what I said. I don't
 24 remember.
 25 Q. And that was to Ms. Bosarge?

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1 A. I believe that was correct.
 2 Q. Is your recollection any better now about
 3 whether it was a fax or a phone call?
 4 A. I believe it was a fax.
 5 Q. Did you fax the contract to her?
 6 A. I may have. I-- this is a little that-- I
 7 may have, yes.
 8 Q. I mean--
 9 A. I don't remember.
 10 Q. And did you get an indication that it was
 11 acceptable for you to go ahead and enter this
 12 contract before you, indeed, signed it?
 13 A. I was taking a chance.
 14 Q. So you signed it before you got any type
 15 of sign-off, if you will, by M&S; is that right?
 16 A. Well, I assume that there was no money in
 17 my account to cover this, and that it would be
 18 someone else's house. So I didn't know exactly where
 19 the money was coming from, which bank or whatever,
 20 and I certainly couldn't buy it. But I could lease
 21 it.
 22 Q. Listen to my question. You entered into
 23 this contract without any approval or sign-off by M&S
 24 that they would pay for it, correct?
 25 A. No.

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1 Q. It's not correct?
 2 A. I think the answer is that it was
 3 speculative on my part, but I had a semi-quasi
 4 go-ahead, and if you can find an appropriate house
 5 for your children, for your wife, in a safe
 6 neighborhood, where you won't be in a fly-by
 7 shooting, and that the Brown & Williamson people will
 8 not be shooting at you, then go ahead. That was the
 9 kind of assurance that I was receiving.
 10 At the time, I was being harassed, pretty
 11 much so, from Kentucky and from your firm and from
 12 people around your firm, and I was very, very nervous
 13 about where I was going to keep my children. And I
 14 think Mr. Scruggs was very concerned for my safety
 15 and well-being and my family.
 16 On that note, I believe that I had some
 17 degree of assurance that M&S would come through and
 18 would be helpful.
 19 Q. Okay. You were simply counting on the
 20 general representation that Mr. Scruggs had made to
 21 you earlier that he would assist you in this, and so
 22 you went ahead and signed the contract?
 23 A. That M&S in the form of whatever, whatever
 24 M&S was, as a purchaser of houses and property, et
 25 cetera, and that he did not want to be-- I think

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1 because he is a wealthy asbestos lawyer that there
 2 are some issues involved as to who is to be buying a
 3 house and who is not to be buying a house, and they
 4 try to up the price and that sort of thing. I think
 5 we had discussed along those lines, but I don't
 6 recall exactly.
 7 Q. Who is Tom Anderson?
 8 A. Tom Anderson is a lawyer in Biloxi.
 9 Q. And he represented who in the closing?
 10 A. He represented M&S Enterprises, I
 11 believe.
 12 Q. Did you ever meet with him?
 13 A. No.
 14 Q. Did you ever talk to him?
 15 A. I don't think I ever talked to him.
 16 (Exhibit 6 was marked.)
 17 MR. SMITH:
 18 Q. Let me show you Exhibit 6. It's entitled,
 19 Buyer Settlement Statement. Let me have that one
 20 back so I can try to keep the marked ones.
 21 Now, the net from buyer at closing was
 22 \$107,568.25. Do you see that?
 23 A. That's correct.
 24 Q. How was that paid at the closing?
 25 A. I have no idea.

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1 Q. You weren't there?
 2 A. I wasn't there.
 3 Q. So you don't know if it was by check or
 4 how it was paid?
 5 A. I do not know.
 6 Q. What papers did you receive from Tom
 7 Anderson after the closing?
 8 A. I did not receive any papers from Tom
 9 Anderson.
 10 Q. When did you receive keys to the house?
 11 A. I believe that Paul Dennis gave me the
 12 keys to the house at some point after the closing.
 13 Q. How long after the closing?
 14 A. When the Meyers people moved out.
 15 Q. Which was when?
 16 A. Best guess, June, sometime in June. Or
 17 maybe-- I think they moved out in June. I'm not
 18 really sure.
 19 Q. The closing was on May 11, 1994?
 20 A. Right.
 21 Q. And they had a right to stay in the house
 22 for some period of time?
 23 A. That's correct.
 24 Q. You had said earlier that you went ahead
 25 and signed this contract, even though you did not

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1 have any specific approval to do it from M&S, and
 2 that you had to wait some time. Was there, at some
 3 point, a communication between you and anybody
 4 relating to M&S with regard to this specific house
 5 and going forward with it?
 6 A. Yes.
 7 Q. What was that conversation?
 8 A. It was just that it sounds like a good
 9 investment. Go ahead. We'd be glad to somehow
 10 manage it. And that was the-- that was the lease
 11 agreement.
 12 Q. Who told you that?
 13 A. I don't recall. I think it was Charlene.
 14 I'm not sure whether it was Mr. Scruggs.
 15 Q. Now, did you talk to anyone--
 16 A. I don't think it was Mr. Scruggs. I think
 17 it was Charlene.
 18 Q. And she told you that it looked like a
 19 good investment? Those were your words?
 20 A. I don't recall whether she said that, but
 21 it was obviously a good investment. The house is now
 22 worth \$117,000.
 23 Q. Well, did you and Ms. Bosarge have any
 24 discussion about this being a good investment or not?
 25 A. I don't recall.

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1 Q. Don't speculate. Tell me what you
 2 remember your conversation was with Ms. Bosarge about
 3 the purchase of this house.
 4 A. I don't remember the conversation.
 5 Q. You don't remember anything specifically?
 6 A. I don't remember anything specifically.
 7 Q. Other than it was approved to go forward,
 8 right?
 9 A. I don't remember anything specifically.
 10 Q. It was-- they did-- M&S did approve the
 11 purchase of the house, though?
 12 A. The documents speak for itself.
 13 Q. The house wasn't furnished, was it?
 14 A. No.
 15 Q. How did you furnish the house?
 16 A. With my salary.
 17 Q. Your salary from Barton & Williams at that
 18 time?
 19 A. Well, no. I had, at the time, a wife,
 20 Sherrie Williams. We had some furnishings, and she
 21 brought them down. I brought a number of furnishings
 22 down during the April 4th period. Sherrie came down
 23 in a van and she brought a number of things for the
 24 children.
 25 Q. Mr. Williams, I--

<p>Page 271</p> <p>1 A. You're asking me how I furnished it. 2 Q. Yes. I can shorten this. We don't need 3 to go into-- 4 A. I would rather go ahead and tell you how 5 the furnishings occurred. 6 Q. You go right ahead, if that's what you 7 want to do. 8 MR. ROYALS: 9 You can go ahead. There is no need to. 10 A. Principally, there was-- 11 MR. ROYALS: 12 I think he means how were you able to-- 13 MR. SMITH: 14 Q. Can I withdraw that question? Did you buy 15 any furnishings for the house? 16 A. I've been buying furniture for the past 17 two and a half years. 18 Q. Did you make any substantial furnishing 19 purchases shortly after closing? 20 A. Shortly after closing? 21 Q. Within a few months after closing. 22 A. I made some antique purchases; not 23 substantial, no. 24 Q. And how did you pay for those 25 furnishings?</p>	<p>Page 271</p> <p>1 repairs. 2 Q. What other repairs-- and we'll just use in 3 excess of \$500-- have you made? 4 A. In excess of \$500? 5 Q. Yes. 6 A. Well, I recently installed carpet. 7 Q. And how much was that? 8 A. Approximately \$4,000. 9 Q. And where did you get the \$4,000 to do 10 that? 11 A. I took-- well, an option was taken on the 12 rights to my life story rights for six months, and I 13 used that money for that purpose. 14 Q. Okay. Who paid you for that option? 15 A. A company called Image Works. 16 Q. Where are they located? 17 A. Image Works is located in Jackson, 18 Mississippi, but they have a branch in Los Angeles, 19 California. 20 Q. And who negotiated that option for you? 21 A. Well, I suppose that Jim Dalerhide was the 22 principal negotiator. 23 Q. Who was that? 24 A. He's the president. 25 Q. Did you negotiate this deal personally?</p>
<p>Page 272</p> <p>1 A. Well, I paid for them with my salary. 2 Q. And at that point, your salary was from 3 Barton & Williams? 4 A. Well, now, what period are you talking 5 about? Are you talking about between the whole 6 summer? 7 Q. Within a few months of closing. 8 A. Within a few months of closing, no, I 9 didn't purchase anything. 10 Q. Nothing. All right. Were you ever 11 provided any funds from M&S or Mr. Scruggs or anyone 12 related to M&S or his law firm for the purpose of 13 making improvements on or furnishing the Diller Road 14 house? 15 A. Not to my knowledge. 16 Q. Wouldn't you know if you got any money? 17 A. I said I don't know. Not to my 18 knowledge. 19 Q. Have there been any repairs or 20 improvements made on the house since you've lived 21 there? 22 A. Yes. 23 Q. Describe significant ones to me, please. 24 A. Significant ones? Garage door, the back 25 porch was redone. I have-- there was a cantilever</p>	<p>Page 275</p> <p>1 A. I have a lawyer. She had spoken with a 2 man named Steve Selene, who is in California. I 3 don't know how much-- to what extent she negotiated 4 that particular option. I've had a number of 5 offers. She's negotiated almost all of them. She 6 was paid a stipend for her-- she actually handled 7 the-- I have a contract with her. So she handled the 8 negotiation, I suppose more than I did. 9 Q. Did you personally deal directly with Mr. 10 Dalerhide at Image Works? 11 A. Of course I did. 12 Q. How much were you paid for this option? 13 A. \$15,000. 14 Q. And when was this option entered into? 15 A. Approximately August 14th. 16 Q. Of this year? 17 A. Actually, I don't know if it was really 18 consummated until the 19th of August. August the 19 19th, maybe. I think it was August the 19th because 20 I signed at that point. 21 Q. And do you have a copy of this option 22 agreement? 23 A. I think Ms. Lichter has a copy. I do 24 not. 25 Q. You were telling me repairs and</p>
<p>Page 273</p> <p>1 that had been falling down and I redid that. There 2 have been, over the two and a half years, a number of 3 odds and ends. 4 Q. And who paid for these repairs? 5 A. I did. 6 Q. You didn't ask Mr. Scruggs or M&S to pay 7 for these? 8 A. No. We are talking two and a half years, 9 here. 10 Q. Is this a-- when you say a garage door, do 11 you mean the automatic opener or the entire door? 12 A. The entire door. 13 Q. And what was the approximate cost of 14 repairing or replacing that door? 15 A. About \$600. 16 Q. And how about the porch? How much was 17 that? 18 A. I did the labor myself. Approximately 19 \$300. 20 Q. And how about the cantilever? 21 A. Well, that was the same thing. Oh, the 22 back porch. Oh, I don't know. The back porch has 23 been probably \$500, \$600, I don't know. And then 24 air-conditioning repairs have been numerous. I have 25 probably spent close to \$2,000 on air-conditioning</p>	<p>Page 276</p> <p>1 improvements to this house in excess of \$500. You 2 can continue. Are there more? 3 A. I'm sorry? 4 Q. Are there more, more repairs in excess of 5 \$500? 6 A. In excess of \$500? You know, I would say 7 that-- 8 Q. Repairs or improvements. 9 A. Well, the vinyl flooring was put in, as 10 well, and I would say that's in the neighborhood of 11 \$300. I did the labor on that, myself. So I guess 12 that's-- I put a dish in the backyard. I've 13 maintained the lawn. 14 Q. A satellite dish? 15 A. Yes. 16 Q. And how much was that? 17 A. Over \$800, approximately. 18 Q. Was this one of those great big dishes or 19 one of the new little bitty dishes? 20 A. It's the little one for Quick TV. 21 Q. What else? 22 A. I have had-- well, let me-- a reassessment 23 on the house was done recently, and it's gone up to 24 \$117,000. 25 MR. ROYALS:</p>

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1 Excuse me, Merrell. I know you're trying
2 to be complete, but just try to answer what he's
3 asking you.
4 A. I'm trying to think of all of the things
5 that I've done to that house.
6 MR. SMITH:
7 Q. I don't want to belabor it either. If
8 there are any significant ones that come to mind,
9 tell me, and I'll move on.
10 A. Simply the ones that I've brought up, yes.
11 MR. HEWES:
12 Was the August 19th, is that this year?
13 THE WITNESS:
14 Yes.
15 MR. SMITH:
16 Q. Now, have you-- do you have plans to spend
17 the remainder of the \$15,000 on the home?
18 A. I can't say what plans I have for them.
19 Q. You haven't made any plans for the
20 remainder of that money yet?
21 A. Well, I have a daughter in college and I
22 have other interests. And the option will be up in
23 December, I believe.
24 Q. I'm sorry. I don't understand the
25 significance of that.

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1 A. Well, you're not into the entertainment
2 business, so I guess you wouldn't.
3 Q. Why don't you tell me that then.
4 A. Well, the significance is that it could be
5 renewed or it could not be renewed.
6 Q. So there might be more money coming?
7 A. Oh, I'm sure there will be more money
8 coming.
9 Q. What makes you sure of that?
10 A. Because there has been a long lasting
11 interest in the continuation of my life story, and
12 people have called on a number of occasions and asked
13 to do a treatment, asked for the option, and that
14 just happened to be the time, the top price. And
15 also, the limitation of not less than \$200,000 to be
16 offered was appended to that particular offer.
17 Q. I'm sorry. I don't understand that. You
18 said it was a \$15,000 option.
19 A. Well, it's an option for the rights to
20 sell the story, to negotiate the story with a studio,
21 particularly, for example, with Warner Brothers.
22 The story is about Merrell Williams and
23 probably the tobacco industry and the lawyers. I
24 haven't written it. It would be written by a
25 professional writer.

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1 Q. And I didn't understand. The question,
2 really, was not clear and I apologize. You said
3 something about \$200,000.
4 A. That would be the minimum that would be
5 acceptable to Linda Lichter.
6 Q. That would be the minimum that you would
7 personally get? You would accept no less than that
8 for the story rights? I'm just trying to make sure--
9 A. For the story rights to one movie, yes,
10 whether it's a MOV, M-O-V, movie of the week, or
11 whether it's an actual movie contract, such as done
12 by a major studio. It could be a lot more and we
13 would expect a lot more.
14 Q. Is the \$15,000, have you received any
15 other money for any types of intellectual property
16 rights with regard to you or your life story?
17 A. No.
18 Q. That's the total amount that you've
19 received for book, movie, magazine, any rights to
20 your story?
21 A. To date.
22 MR. SMITH:
23 Can we take a short break?
24 (Off the record.)
25 MR. SMITH:

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1 Q. Mr. Williams, looking again at Exhibit 6,
2 the buyer is indicated as M&S Enterprises, a limited
3 partnership, and the address of M&S is listed as
4 1415 Diller Road in Ocean Springs. M&S doesn't--
5 that's not their place of business, right?
6 A. No.
7 Q. Do they have a place of business?
8 A. I assume that it would be with Charlene
9 Bosarge, wherever she is.
10 Q. And she works for Mr. Scruggs in his law
11 firm, right?
12 A. That's correct.
13 Q. Now, how did the lawyer, Tom Anderson, how
14 did he know to put M&S on the closing statement when
15 the contract named you as the buyer?
16 A. I don't know.
17 Q. You didn't have any communications with
18 regard to that?
19 A. I had no communication with regard to
20 this.
21 Q. After you did this contract, put the
22 earnest money down, what was your next involvement
23 with the closing of the house-- with the purchase of
24 the house after you signed the contract? What was
25 the next thing you did?

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1 A. Would you repeat that, please?
2 Q. Yes. You signed this contract--
3 A. This-- are we on this--
4 Q. I'm sorry. Exhibit 5. You signed a
5 contract, Exhibit 5. What was your next involvement
6 with this house, getting this house closed?
7 A. On a date thereafter, I was asked to come
8 up with \$1,500. I believe that's correct. And I
9 took that from the money that I had and I brought it
10 to the office, and they apparently accepted the
11 offer, based on that \$2,500.
12 Q. When you say brought it to the office, you
13 mean the "K" Realty office?
14 A. That's correct.
15 Q. Then what happened next with regard to
16 this house, as far as your personal involvement was
17 concerned?
18 A. Nothing, that I recall. I believe I asked
19 a few questions and-- of Mr. Dennis about something
20 about furniture that they had there, would they care
21 to sell some, and the answer was no. And things like
22 that.
23 Q. Well, what was your next involvement after
24 your discussions with Mr. Dennis?
25 A. After my discussions with Mr. Dennis, I

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1 was into, I think it was May, and my daughter was
2 here from Louisville sometime in May, prior to her
3 graduation from the 8th grade at the Catholic school,
4 and I was more involved with her because of her
5 emotional problems at the time. She came to live
6 with me at-- on Cumberland Road. I don't recall any
7 conversations with Mr. Dennis regarding anything.
8 Q. Or with anybody. I'm not just talking
9 about Mr. Dennis. I want to know your-- what was
10 going on. What did you do from after the contract
11 was signed on April 27th to ensure that this closing
12 took place on May 11th?
13 A. Was it signed on April 27th?
14 Q. That's what it says-- well, that's
15 actually the acceptance date.
16 A. Well, now, was that the \$1,500 or the
17 \$1,000? I don't remember what--
18 Q. Well, I don't really care. Let me ask you
19 this question.
20 A. Well, let me see what we are talking about
21 so I can answer the question. I'm confused.
22 Q. Let me ask you another question. I don't
23 want you to be confused.
24 A. Okay.
25 Q. Let me ask you this question. From the

1 time that you provided the \$1,500 additional earnest
2 money, what did you-- what was your role in the
3 purchase of this house that led to the closing on May
4 11?
5 A. None.
6 Q. Is it correct that after you provided the
7 earnest money and the contract was accepted, you had
8 no involvement with this house being purchased,
9 whatsoever?
10 A. No. I-- the only thing that I can think
11 about is there was an insurance problem concerning
12 who-- how you could get insurance, who was to be-- I
13 mean, when you were a tenant. And I was a tenant.
14 Q. Well, all right. Now, let's talk about
15 the closing. The contract got signed. Who called
16 Tom Anderson to tell him that he should represent M&S
17 in closing this house?
18 A. I don't know. Probably M&S.
19 Q. When did you find out that M&S, that
20 particular entity was going to be the buyer of the
21 house?
22 A. I don't remember.
23 Q. Well, was it after the contract was
24 signed?
25 A. Which contract?

1 Q. The sales contract.
2 A. Well, if this is the only one, I remember
3 that there was the \$1,500 and that was on a different
4 time. And when they had accepted the house as a
5 sale, I believe that Tom Anderson was contacted by
6 M&S to say that they were buying or putting the money
7 into that house, so therefore, it was going to be a
8 sale. I don't know that for sure. But I believe
9 Paul Dennis called me and said something along those
10 lines.
11 And then there was a question on my mind
12 as to how to insure the house.
13 Q. We'll get to the insurance in a minute.
14 Okay?
15 A. Okay.
16 Q. When was the first time you were ever
17 aware that there was such a thing as M&S?
18 A. I don't remember.
19 Q. But it was after the sales contract was
20 executed, wasn't it?
21 A. No. I-- it seems to me there was a-- some
22 property that was mentioned in Biloxi or somewhere
23 that M&S owned or had purchased and maybe it was the
24 place in Pascagoula. Maybe it-- maybe it was that
25 elegant old hotel or-- a place in Pascagoula. M&S

1 apparently had a lot of properties and I had heard it
2 through, I think, maybe through Dick Scruggs, I don't
3 know, through somebody in his office, through
4 Charlene. I don't recall.
5 Q. You may have heard of it before the sales
6 contract was signed or you may not have?
7 A. I-- it's very difficult for me to go back
8 and say exactly when I heard M&S was not-- you know,
9 they were either going to have a bank or whatever. I
10 don't know.
11 Q. Well, let me ask you this. When did you
12 find out that M&S was going to buy the house?
13 A. I don't know.
14 Q. Your house.
15 A. I don't know.
16 Q. Did you know when the closing was going to
17 take place?
18 A. Yes.
19 Q. How did you know that?
20 A. I think that there was a discussion about
21 the Meyers leaving on the 1st of June or something
22 like that, and that it was their preference or
23 something like that. I don't know. But Paul Dennis
24 arranged it.
25 Q. Who are the principals of M&S?

1 A. I don't know.
2 Q. You don't know who the president is?
3 A. Well, I know that Charlene Bosarge is
4 secretary.
5 Q. You don't know who the president is?
6 A. No, not-- I don't know their officers.
7 Q. You don't know any employees, who any
8 employees of M&S are?
9 A. I think-- no, I don't.
10 Q. Do you know if M&S has any employees?
11 A. No, I don't.
12 Q. Do you think they do?
13 A. I don't know.
14 Q. Now, why didn't you attend the closing?
15 A. It wasn't my house.
16 Q. Did you actually know, before the closing,
17 who was going to buy the house?
18 A. Yes.
19 Q. And how did you know that?
20 A. I don't remember.
21 Q. But you think you knew it?
22 A. M&S.
23 Q. At the time that you moved into the house,
24 were the utilities in your name?
25 A. Were they in my name when I moved in?

1 Q. When the utilities were first used by you,
2 were they in your name?
3 A. I had to authorize them to put it in my
4 name, yes.
5 Q. They weren't in M&S's name?
6 A. No. I was to lease the house from M&S.
7 Q. But you never leased the house?
8 A. It-- I was to lease the house. I am under
9 the impression that that was my intention and I don't
10 understand your question exactly.
11 Q. There's never been a lease, has there?
12 A. No.
13 Q. You've never made a lease payment, have
14 you?
15 A. No.
16 Q. Now, you mentioned some confusion about
17 insurance. Could you explain that to me now?
18 A. Since I was going to be a tenant, there
19 was a problem in terms that I was-- I don't remember
20 how it came up, but I realized that it was a
21 different situation than a person who was-- who owned
22 a house. If the person owned the house, the
23 insurance was X number of dollars, and if the person
24 didn't, it was much higher.
25 As a tenant, I had to arrange for some

1 kind of insurance or someone had to arrange for some
2 kind of insurance, assuming that to be M&S.
3 Q. Now, who did you talk to? Who was this
4 person that you talked to about insurance?
5 A. I didn't talk to anyone directly. Paul
6 Dennis talked to someone, and I believe his name was
7 Felsher.
8 Q. Is it your testimony that you have never
9 had a conversation with Michael Felsher?
10 A. No.
11 Q. That's not your testimony?
12 A. No.
13 Q. You have had a conversation with Mr.
14 Felsher?
15 A. Yes.
16 Q. When was that?
17 A. It was shortly after February the 14th,
18 1995, perhaps two or three months or maybe a month
19 thereafter.
20 Q. And what was that about?
21 A. The substance of the conversation was, I
22 walked into his office, and I said, do you know who I
23 am? He said, no. Well, uh, yes.
24 And I said, you don't know who I am? And
25 he said, no. And I said, do you recognize my voice?

1 And he said, no. And I said, well, you've never met
2 me and I've never talked to you. He said, no. I
3 said, my name is Merrell Williams. I have been sued
4 and I want to know if the facts that you have alleged
5 in this particular matter are correct, since I don't
6 know you and you don't know me.

7 First, did a private investigator come
8 here and ask you questions, and would you reveal
9 questions-- answers regarding me if you didn't know
10 me? He said he didn't know. And I said, well, did a
11 private investigator come and visit you? And he
12 said, well, yes, someone came there. And I said--

13 And I asked him questions, particularly,
14 about the allegations that were in your complaint. I
15 was concerned because I did not know the man. I had
16 never talked with him personally. And I thought,
17 perhaps, that he had mistaken me for someone else.
18 Particularly, there were matters concerning me
19 phoning or being phoned at Dick Scruggs' office,
20 which was incorrect, and the fact that the man did
21 not even know me.

22 When I left, I left on the note of, well,
23 I am concerned that you would reveal information,
24 even if these allegations were accurate, if I had
25 some kind of contact with you as an insurance person,

1 that someone could just walk in, unless it was a
2 government-- a governmental body and you give
3 information.

4 He too became very concerned about that.
5 I left. That was the conversation.

6 Q. Is it your testimony that you did not have
7 any conversation with Michael Felsher in May of 1994,
8 about--

9 A. That is my testimony.

10 Q. During your conversation with Mr. Felsher
11 in 1995, when you went to his office, did he tell you
12 that he, in fact, had called you at Mr. Scruggs'
13 office and had talked to you?

14 A. Mr. Felsher denied every allegation that I
15 had seen on that complaint.

16 Q. To you?

17 A. He did to me.

18 Q. He denied that he had ever called you or
19 talked to you?

20 A. He said he didn't know very much about it,
21 and he said that the first thing that he would have
22 done, as I recall is, that he would have called his
23 attorney to signal him that someone was asking
24 questions about a possible client. And I said, how
25 was he-- was I a client of his. And he said that he

1 didn't-- he didn't know me.

2 Q. Well, my question is, did he deny ever
3 having talked to you?

4 A. Yes.

5 Q. He did?

6 A. He did to me. He also-- well, that's
7 another matter, but--

8 Q. Well, go ahead. What else? What else did
9 he say? What else did he say?

10 A. Well, I believe he said that the man was
11 very aggressive that came into the office, and that
12 he was some kind of private investigator from
13 Atlanta, which was representing King & Spalding or
14 Brown & Williamson.

15 Q. Did he say that he didn't tell the truth
16 to this man who came to see him?

17 A. What he told me was that he apparently was
18 not telling the truth to-- in that allegation,
19 through your allegations. In other words, I left
20 with the distinct impression that the allegations
21 were lies.

22 Q. Did he indicate that he had not said those
23 allegations?

24 A. He did so, sir.

25 (Exhibit 7 was marked.)

1 MR. SMITH:

2 Q. Now, you moved into this house around June
3 1, 1994; is that right?

4 A. I actually think it was closer to the
5 middle of July, actual moving, such as it was,
6 because I still had an apartment at 141 on
7 Cumberland, 3220 Cumberland Lane or whatever.

8 Q. On July 20th, 1994, M&S deeded the house
9 to you, correct?

10 A. That's correct.

11 Q. And you made no payment to M&S when they
12 deeded that house to you, did you?

13 A. No.

14 Q. And you signed no note or loan document of
15 any kind, did you?

16 A. Asked and answered.

17 Q. Did you?

18 A. No.

19 Q. Did you have any discussions with Mr.
20 Scruggs with regard to this house being deeded to you
21 free and clear?

22 A. Yes, I did, in terms of a loan.

23 Q. What were your discussions with Mr.

24 Scruggs that led to this house being deeded to you
25 free and clear?

1 A. Mr. Scruggs felt like that it was a-- I
2 felt that he felt like that I thought, it was my
3 impression, that he wanted to be very helpful to me,
4 in a sense that I was under the gun, so to speak,
5 that I was constantly being harassed, both by
6 Kentucky, in the sense of the courts in Kentucky, and
7 by the investigations that were seemingly going on
8 here.

9 I felt like my children should be safe and
10 that I could carry them through their college years,
11 that I had custody. And I explained, perhaps in a
12 pitiful way-- I don't know-- I might have gotten a
13 little bit too much-- too maudlin, but I really felt
14 like security was important and that there was a
15 benefit in knowing that I would not be tossed out on
16 my ears with my children here, and that I could show
17 cause in the sense of being able to maintain my
18 children, even under the pressure of a pending
19 divorce with Sherrie, who was their surrogate mother,
20 so to speak.

21 There were very strong emotions at the
22 time. I was in the headlines. And Molly, who is
23 their natural, biological mother, felt that she could
24 come in and take the children, even though they
25 didn't have a relationship with her at the time, and

1 that I was caught sort of in between.

2 If I could establish myself as a resident
3 of Mississippi and as-- well, homestead exemption
4 being one thing, but if I had something that I could
5 stand on, then I would be able to-- be able to
6 provide this security for my children throughout
7 their college years.

8 At the time, I felt that it was very
9 significant, and Mr. Scruggs was very kind in the
10 sense that he felt that he could do this for me, and
11 that I could pay him back. I felt also that I could
12 pay him back.

13 In 1994, I had received a number of offers
14 for movie rights, and usually, these offers are not--
15 well, they weren't small. They were very-- they were
16 very, very-- they got larger as they went along, but
17 there was a-- there was a sense that there was an
18 effort that I could, at some point, pay this back,
19 and I was thinking in terms of five years.

20 So that's my answer.

21 Q. My question that led to that was, what did
22 you and Mr. Scruggs discuss with regard to this house
23 being deeded to you? Were all of those things that
24 you just stated to me things that you discussed with
25 Mr. Scruggs?

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1 A. I believe that's the context of it.
 2 Q. So, essentially, you felt you needed this
 3 house to help you with custody issues and to benefit
 4 your children while they were in college, and you
 5 felt it would be better for you to have the house in
 6 your name?
 7 A. You've asked the question.
 8 Q. Is that correct? I mean, is my summary
 9 correct? It was a long answer. I'm trying to get
 10 the gist of it.
 11 A. I've answered your question, sir.
 12 Q. Well, I'm asking a new one.
 13 A. In what way?
 14 Q. Is it correct that you felt you needed
 15 this house to help you with custody issues and to--
 16 and for your children's benefit while they were in
 17 college, and you felt, for that reason, it was better
 18 for you to have the house in your name; is that
 19 right?
 20 A. You've left out harassment. There was a
 21 number of issues, in terms of harassment, and I think
 22 that my answer before that was more complete than
 23 your summary.
 24 Q. If we add harassment to it, is it a fair
 25 summary?

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1 A. If we add harassment in the sense that I
 2 described it before your other question, yes, I
 3 suppose.
 4 Q. And upon making this plea to Mr. Scruggs,
 5 he agreed to deed the house to you, correct?
 6 A. That's correct.
 7 Q. You said it was in your mind that you
 8 would pay him back within five years. Was there any
 9 discussion with Mr. Scruggs about the payment, making
 10 any payment?
 11 A. No.
 12 Q. Was there any discussion at all about
 13 repaying Mr. Scruggs?
 14 A. No, not that I recall.
 15 Q. You just simply said, it would help me out
 16 if you deeded this to me, and he said, I'll deed it
 17 to you, essentially?
 18 A. I've answered that way, yes.
 19 Q. That was a yes on the end of that? Did
 20 you get that?
 21 A. I don't know exactly how he said it. I am
 22 just saying that we-- that the house was deeded to me
 23 on the basis of the answers that I gave earlier.
 24 MR. CARROLL:
 25 Have we got Exhibit 5 somewhere?

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1 MR. SMITH:
 2 Is that the sales contract?
 3 MR. CARROLL:
 4 You're not giving us copies at this point
 5 in time?
 6 MR. SMITH:
 7 Well, I am. I've given you a copy of
 8 everything that-- well, I did.
 9 (Off the record.)
 10 MR. SMITH:
 11 Q. Now, after you asked Mr. Scruggs to deed
 12 the house to you-- well, first of all, when was that
 13 conversation?
 14 A. I don't recall.
 15 Q. Was it after you moved into the house?
 16 A. Possibly.
 17 Q. You don't remember?
 18 A. I've answered your question.
 19 Q. Well, you said possibly. Do you have a
 20 recollection or not?
 21 A. Possibly. I don't remember.
 22 Q. Could it have-- it could have been before
 23 you moved in then?
 24 A. I don't recall.
 25 Q. After he agreed to deed it to you, what

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1 involvement did you have, from that point, until the
 2 warranty deed was signed?
 3 A. Clarify that?
 4 Q. Huh?
 5 A. Could you clarify that?
 6 Q. Yes. Did you have to do anything after he
 7 agreed to give you the house or, excuse me, deed the
 8 house to you, or did this warranty deed just appear
 9 in the mail one day?
 10 A. Did I-- I can't understand your question.
 11 Say that again.
 12 Q. You had a conversation with Mr. Scruggs
 13 where--
 14 A. In the first place, I don't remember the
 15 conversation with Scruggs. But go ahead with your--
 16 Q. Well, you've told me that you relayed to
 17 him that you wanted him to deed the house to you for
 18 various reasons that you've described at length.
 19 A. Agreed.
 20 Q. And the question is, after that
 21 conversation in which he agreed to do that, did you
 22 do anything to accomplish that or did the deed just
 23 appear in your mailbox one day?
 24 MR. CARROLL:
 25 Excuse me. I think-- I'm not trying to

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1 speak for Mr. Williams, but I think the form of the
 2 question may be giving him a problem because I think
 3 you're assuming that in that conversation, Mr.
 4 Scruggs agreed at that point in time to deed the
 5 house to him. And I'm not sure he said that. He may
 6 have. I just don't know.
 7 MR. SMITH:
 8 Q. I thought the testimony was pretty clear,
 9 that Mr. Scruggs--
 10 A. I don't recall a conversation with Mr.
 11 Scruggs about deeding the property, as such, to me.
 12 I do recall about the situation and talking, in terms
 13 of the family and so forth like that.
 14 Now, "do anything" is complicated for me
 15 because the only thing that I recall doing is meeting
 16 with Charlene and a notary, and we signed that
 17 document, and it was notarized. And then I took it
 18 to the court and recorded it. So I did do those
 19 things, if that's what you mean.
 20 Q. That's exactly what I meant. Thank you.
 21 Now, let's go back and make sure we're
 22 clear on this. You did have this conversation that
 23 you've described with Mr. Scruggs, you've described
 24 at length, where you described the reasons that it
 25 would be better for you to have this house in your

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1 name. Do you recall Mr. Scruggs saying that he
 2 agreed and that he would deed the house to you?
 3 A. No. I don't recall him saying that.
 4 Q. How did you learn that M&S was going to
 5 deed the house to you?
 6 A. I don't know. I might have spoken with
 7 Charlene, and I just don't recall exactly how it
 8 happened. But we were meeting at a certain place. I
 9 believe it was Wendy's, signed at lunch or
 10 something. No big deal.
 11 Q. So it's your testimony that you don't
 12 remember how you learned that someone was going to
 13 deed a \$109,000 house to you? You don't recall?
 14 A. I don't recall exactly, no.
 15 Q. Now, you've described a conversation with
 16 Mr. Scruggs where you told him the reasons that you
 17 should have this house in your name. Was that one
 18 conversation or more than one conversation?
 19 A. It was one conversation. I think it was
 20 very short. I don't remember when.
 21 Q. Was it by phone or in person?
 22 A. I think it was by phone.
 23 Q. And were you all calling from the house?
 24 A. Which house?
 25 Q. The Diller Road house.

1 A. I don't remember.
 2 Q. Is that the only conversation you had with
 3 Mr. Scruggs with regard to deeding the house to you?
 4 A. I believe so.
 5 Q. And in that conversation, there was no
 6 discussion of repayment by you to him?
 7 A. No. I don't think so.
 8 Q. Now, let me show you Exhibit 7. And this
 9 question simply, is that the warranty deed deeding
 10 the house to you?
 11 A. Yes. It's a copy.
 12 Q. Now, Mr. Williams, it's true, isn't it,
 13 that you have-- it's true, is it not, that you have
 14 never had a conversation with Mr. Scruggs with regard
 15 to your repayment of the price of the house?
 16 A. No.
 17 Q. It's not true?
 18 A. I don't think it is. I mean, I don't
 19 think I've had a conversation with him about a
 20 repayment schedule.
 21 Q. We've got our negatives backwards, here.
 22 You've never had a conversation with Mr. Scruggs with
 23 regard to repayment of the price of the house, have
 24 you?
 25 A. No.

1 Q. Do you pay the real estate taxes on the
 2 house?
 3 MR. ROYALS:
 4 Go ahead and clarify that.
 5 A. Well, I-- the only thing I can say is that
 6 I am good for it. I mean, I did have a conversation
 7 since I'm good for it. There is no question that I
 8 am going to make a lot of money off of the movies.
 9 And I think it's been proven that that's a-- that's a
 10 great possibility. And whether that has stuck with
 11 him or not, I don't know.
 12 Q. You had a conversation with Mr. Scruggs
 13 where you told him you were good for it?
 14 A. I am saying that there were--
 15 MR. ROYALS:
 16 Excuse me just a minute. I think, and I'm
 17 not sure, that in the long answer he gave earlier he
 18 said that he told Scruggs that he could pay him back
 19 for the house. Isn't that in that?
 20 MR. SMITH:
 21 I don't remember it, but it will obviously
 22 speak for itself.
 23 MR. ROYALS:
 24 Yes.
 25 (Off the record.)

1 MR. SMITH:
 2 Q. Who pays the real estate taxes on the
 3 house?
 4 A. I do.
 5 Q. Have you paid them since the house-- since
 6 you've been in the house?
 7 A. Oh, yes.
 8 Q. You pay this out of your money from your
 9 salary, wherever it's been coming from through the
 10 years?
 11 A. Yes.
 12 Q. Now, I assume that the insurance, based on
 13 what you've told me earlier, that the insurance on
 14 the house initially was in the name of M&S because
 15 they were the owners initially, correct?
 16 A. I don't know.
 17 Q. Well, do you know whether the house was
 18 insured when you moved in it?
 19 A. I don't.
 20 Q. You had no insurance in your name because
 21 you weren't the owner at the time, correct?
 22 A. That's correct.
 23 Q. Do you have insurance on the house now?
 24 A. I have wind pool insurance on the house.
 25 Q. You have what?

1 A. I have wind pool. We have hurricanes
 2 around here.
 3 Q. Did you take over the policy that was on
 4 the house that M&S had?
 5 A. No. It was my own idea because I felt
 6 that homeowners insurance is not necessarily
 7 something that I need.
 8 Q. Okay. So you have no homeowners
 9 insurance, per se, other than--
 10 A. It's called wind pool insurance. If a
 11 hurricane or tornado comes through, it will cover the
 12 complete house, everything except the fence. And
 13 because the house sits on very high ground-- it's the
 14 highest ground around here, I'm not worried about
 15 flood insurance. Because the only thing that I worry
 16 about would be, you know, somebody setting fire to
 17 something. I'm not concerned about that. So I don't
 18 have-- I have wind pool insurance.
 19 MR. CARROLL:
 20 Let's go off the record for just a
 21 second.
 22 (Off the record.)
 23 MR. SMITH:
 24 Q. So if the house burns down, it's just a
 25 loss? There is no coverage for that?

1 A. Shit happens. That's a quote from "Forest
 2 Gump". It's not on the record. I'm sorry.
 3 Q. Well, it is on the record.
 4 A. Well, I'm sorry. I didn't mean to--
 5 MR. SMITH:
 6 I'd like to take a short break because
 7 there is a whole lot of stuff I can't cover now and I
 8 am going to try and figure out what I can cover.
 9 (Off the record.)
 10 MR. SMITH:
 11 Mr. Royals and I had a discussion off the
 12 record, and I told him that I had an intention of
 13 going into a line of questioning relating to Mr.
 14 Williams' meetings with various people, including Mr.
 15 Danard, Mr. Valenti and others, and although these
 16 meetings may not have directly involved the substance
 17 of the documents or exchange of any documents, that
 18 because they related to that general subject matter
 19 that Mr. Royals, based on his statement of his
 20 position this morning, would not let Mr. Williams go
 21 into questioning in those areas.
 22 And I just wanted to state that on the
 23 record as the reason that I'm not going into those at
 24 this time so that we cannot burden the record any
 25 further with a statement of positions on that. Is

1 that a fair statement, Mr. Royals?
 2 MR. ROYALS:
 3 Well, I may have broadened that more than
 4 I intended to. What I'm saying is, if there are any
 5 questions about the documents, I will instruct him
 6 not to answer.
 7 MR. SMITH:
 8 Well, there clearly will be questions in
 9 those areas about the documents, as well as other
 10 questions, but there certainly-- that will certainly
 11 be in there, and it will be difficult to pursue those
 12 lines and not be able to go into the documents. I
 13 simply don't want-- I didn't want anyone to argue
 14 later that I should have gone into it today, and
 15 therefore can't go into them at some later date, and
 16 I just wanted to make sure that we didn't have an
 17 issue there.
 18 MR. ROYALS:
 19 I don't think we do. I think if it's
 20 about the documents, I would instruct him not to
 21 answer.
 22 MR. SMITH:
 23 Okay. That's good.
 24 MR. SMITH:
 25 Q. Back to the house again. We're still on

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1 the house.
2 MR. CARROLL:
3 Did you make a decision about whether you
4 wanted to break for lunch or not, Gordon?
5 MR. SMITH:
6 I'm going to finish fairly early. I don't
7 think-- I mean, it's 12:00 now. I'm not going to
8 finish in the next ten minutes or anything like
9 that. If you want to break now, it's up to you all.
10 I was going to go another 10 or 15 minutes.
11 MR. ROYALS:
12 With the idea of maybe finishing?
13 MR. SMITH:
14 I'm going to finish probably in an hour or
15 so, but I would prefer not to go straight through.
16 MR. ROYALS:
17 Let's break for lunch now then, if it's
18 going to take another hour.
19 (A lunch recess was taken.)
20 MR. SMITH:
21 Tom, you've indicated your position with
22 regard to instructing Mr. Williams not to testify
23 with regard to-- answer any questions that relate to
24 the documents, and I had intended, in order to make
25 this record clear and to place the questions and

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1 answers on this record, to ask him questions that had
2 already been asked to him in the earlier deposition,
3 March 20, 1996, in order to get the same question and
4 his answer on this record.
5 It is my understanding that if I ask
6 verbatim the same question that I had asked in that
7 deposition today that you would instruct him not to
8 answer.
9 MR. ROYALS:
10 Correct.
11 MR. SMITH:
12 And just to make sure that there is no--
13 and this is not in any way questioning you, but to
14 complete the record, I want to ask Mr. Williams if
15 you would, indeed, follow your counsel's direction
16 and not answer any of those questions.
17 A. Yes.
18 Q. Before the lunch break, I had started to
19 ask a few more questions with regard to the Diller
20 Road house and the purchase of it. Now, did you, at
21 some point, after the closing go to the real estate
22 agent and ask to borrow your file for the Diller Road
23 house?
24 A. I did not ask for my file. I asked for
25 the file from that location.

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1 Q. And you asked to borrow it, correct?
2 A. Yes, I did.
3 Q. And you were told that-- initially that it
4 was their policy not to let files go out of the
5 office, correct?
6 A. No.
7 Q. No?
8 A. No.
9 Q. What was the conversation then?
10 A. The conversation was held between the
11 owner, whose name I've-- Can you provide me the name
12 of the owner? You probably have that.
13 Q. Is that Ruth Nelson?
14 A. Ruth Nelson. It's her corporation. I had
15 a conversation with Ruth Nelson. I said, may I have
16 the file, since it wasn't my house, but M&S's file,
17 et cetera. She gave me no reluctance. She was not
18 in any way reluctant. And I was not asked to make a
19 copy. I merely said, may I borrow it? I'm going to
20 go to Jackson. I would like to have the-- I would
21 like to have the file. And she didn't-- she didn't
22 have any reaction other than okay.
23 And she went, and she, to my knowledge,
24 she got it out of a drawer or somewhere. And I think
25 it might have been the room in-- I don't know whether

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1 Mr. Dennis was there or not. But there were several
2 real estate agents there, one of whom I knew lived
3 near ([DELETED]) at a house on stilts, et
4 cetera.
5 Anyway, the answer to your question is,
6 she didn't-- she just handed me the file.
7 Q. Was there any indication that you should
8 return the file?
9 A. Yes. I said I would.
10 Q. And you didn't?
11 A. No. I did.
12 Q. You did return it?
13 A. I did.
14 Q. When did you return it?
15 A. There was a lady who had-- I don't
16 remember the exact date, but the file, which was just
17 a very-- you know, there wasn't anything in it, other
18 than it was a manila folder with some kind of--
19 Q. Mr. Williams, the question is, when did
20 you return it?
21 A. I don't recall exactly because it was
22 sometime during the summer-- I mean, during that
23 summer.
24 Q. The summer of 1994?
25 A. '94, right.

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1 Q. And who did you return it to?
2 A. Well, that's what I was going to-- the
3 lady who lived in the house on the stilts on the end
4 of the road on [DELETED] it was my
5 understanding that she-- well, I had a conversation
6 with her and she said she built her house. I thought
7 it would be a nice place to return the file. I left
8 it there. I left it with her.
9 Q. Wait a minute, now. Did you leave it with
10 her or did you simply leave it at the house at the
11 door or something?
12 A. Well, I left it at the house at the door
13 because no one was there.
14 Q. Did you tell her you were going to do
15 that?
16 A. No.
17 Q. Did you call her to tell her afterwards to
18 find out if she got it?
19 A. No.
20 Q. How did you come to find that this woman
21 lived at-- what, Cumberland Road?
22 A. It was a conversation that we were having
23 during the-- sometime during that summer.
24 Q. Where did you have this conversation?
25 A. In the real estate office.

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1 Q. You just happened to meet another agent,
2 not Paul Dennis, because it's a woman, just another
3 agent in the office?
4 A. That is my testimony, yes. And I don't
5 remember the lady's name, and I guess I was making
6 the assumption that she would take it back to the
7 office.
8 Q. So you took this file-- well, which is
9 closer, the real estate office or this lady's house?
10 A. Well, at the time, I was living at 141--
11 and I was living in both places, actually. So I--
12 her house was a lot closer to the real estate.
13 Q. In the summer, you were living at [DELETED]
14
15 A. No, no. I-- there was an overlap period
16 of time that I lived in the apartment, as well,
17 through July, as I recall, and that was on
18 [DELETED], and the
19 official address was [DELETED], or
20 something like that.
21 And the house that I am talking about is
22 right at the corner of [DELETED] it's right on
23 the end of the bayou, and it's only-- oh, I would say
24 it's less than two blocks, if you measured it by
25 blocks, from the apartment complex.

1 Q. All right. And you say this was-- you
2 were living in both places for some period of time.
3 A. Well, I was moving out, in and out, and I
4 don't know if this period of time was the time that I
5 actually returned it. But as I reflect on it and--
6 since it was so insignificant to me, I didn't really
7 think there was anything in it that might be
8 important. I just left it on her doorstep, what was
9 there.
10 Q. And from the house or [DELETED] which
11 is closer, the [DELETED] or the real estate
12 office?
13 A. Excuse me. Say that again?
14 Q. From the [DELETED] house, which is [DELETED]
15 closer, the [DELETED] house or the real estate
16 office?
17 A. The
18 Q. So it's closer from either the apartment
19 or from [DELETED] the [DELETED] house as
20 opposed to-- let me finish-- as opposed to the real
21 estate office?
22 A. It is approximately, I would say, three
23 miles to the real estate office from either direction
24 because the house is not too far from
25 Road, the apartment complex.

1 A. Yes, I did.
2 Q. Did you make a copy of it or did you give
3 the original to him?
4 A. For the-- I believe that it might have set
5 on his desk for a while. I don't know.
6 MR. ROYALS:
7 The copy or the original?
8 MR. SMITH:
9 Q. Listen to the question.
10 A. Did he make a copy?
11 Q. No. Listen to the question. Did you send
12 him the original that you got from the real estate
13 agent or did you make a copy and send him the copy
14 and you keep the original?
15 A. No. I kept the original and I gave it to
16 him, and it was on that same day or the day after
17 that we had a conference and we talked about--
18 Q. Well, if he was in Jackson, how did you
19 give it to him?
20 A. I handed it to him.
21 Q. You drove it up to Jackson to give it to
22 him?
23 A. Yes. Yes.
24 Q. Why did you want him to look at it?
25 A. Because his specialty is real estate.

1 Q. What about the house; how far
2 is it from the
3 A. That's what I'm saying. Both of them are
4 very close by. As a matter of fact, they're bike
5 riding. But I would go-- if I had to bike ride
6 downtown, it would be a long bike ride.
7 Q. So, just to make sure, I want to
8 summarize--
9 A. That's the best recollection I have of
10 that particular event.
11 Q. Well, let me summarize to make sure I
12 understand it. Let me not summarize. Let me ask a
13 couple more questions. Why did you want the file?
14 A. I was taking it to Tom-- not to Tom, but
15 to Don Lacy to have a look at it.
16 Q. And why were you having Don Lacy have a
17 look at it?
18 A. Because he specialized in real estate.
19 Q. And was Don Lacy down in this area at that
20 time?
21 A. No. He lives in [DELETED]
22 Q. Did Ruth Nelson offer to make a copy of
23 the file for you?
24 A. No, she didn't.
25 Q. She didn't say, can you wait a few minutes

1 Q. What was your question? Why did it need
2 to be reviewed?
3 A. It had to do with title insurance.
4 Q. What about title insurance?
5 A. Well, he has a title insurance--
6 MR. ROYALS:
7 Excuse me just a minute. This may be
8 attorney/client privilege between him and Lacy.
9 A. I think it is, too, but I'm--
10 MR. ROYALS:
11 So I object for the record.
12 A. But I was in Jackson, and--
13 MR. SMITH:
14 Q. But you never-- you kept possession of the
15 original file? You did not give that to Mr. Lacy?
16 A. Yes.
17 Q. And what's your best recollection of when
18 this was?
19 A. When I actually saw Mr. Lacy?
20 Q. No. When you got the file from Ms.
21 Nelson.
22 A. It would be sometime in July, I think,
23 early July, maybe, or sometime around in there.
24 Q. And how long did you keep the original of
25 the file?

1 and let me make a copy or something like that?
2 A. No, she did not. And I saw that in the
3 complaint, and I had asked sometime later, after you
4 filed your allegations and I said, you know, you've
5 talked to an investigator or something like that.
6 And why did you say these things, and if you did, is
7 there any kind of record of this? I don't understand
8 why you would talk to some stranger about a
9 transaction.
10 Well, then again, I thought about it and I
11 said, well, she gave me the file to M&S Enterprises'
12 house, so I thought maybe she was a little unusual in
13 her business transactions.
14 My mother, having been in real estate for
15 a long time, I asked her the same question, would you
16 do the same thing? Would you talk to a stranger, an
17 investigator, which is what I understand happened,
18 and where you got this kind of information from one
19 of your private investigators that you sent down so
20 many times.
21 And I think she unquestionably denied that
22 there was any kind of information that she had
23 concerning this.
24 Q. Okay. Did you give the file to Mr. Lacy
25 to look at it?

1 A. I don't recall, but I believe that I was
2 just treating it rather casually. And I was driving
3 by, and just dropped it by this lady's house,
4 probably August, September, maybe that-- for a while,
5 I thought maybe I hadn't done that, but I did. And I
6 was thinking, gee, that doesn't seem very
7 significant, you know. But it was somebody else's
8 file, actually, and so--
9 Q. What do you mean when you just said, I
10 thought maybe I hadn't done that, but I did?
11 A. Well, when we began to get allegations
12 from your private investigators, I began to think
13 about it. And I was wondering. And it was during
14 the period of time, 1995, that I didn't-- when I
15 received your Valentine Day's complaint, shortly
16 thereafter, I spoke with-- on the phone, I spoke with
17 both Ruth Gordon and with--
18 Q. Ruth Nelson?
19 A. Ruth Nelson, and with Paul Dennis about
20 some kind of private investigator, and some kind--
21 and the file. And I said, you know, I don't recall
22 any of this, other than what I walked in, and what's
23 this about a lawyer that I was leaving with, that I
24 had a lawyer waiting in the car and all of that?
25 And to the best of my knowledge, she

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1 denied that she had said any of this. And she was
2 also very interested in the fact that it seemed to be
3 an oppressive gesture on the part of the guy who
4 walked in and interviewed her.
5 Q. Mr. Williams, the question pending is--
6 A. I assume he interviewed her.
7 Q. -- why did you say that you thought you
8 hadn't done it at one point in time?
9 A. Because it was totally insignificant to
10 me. It was just a piece--
11 Q. So just to summarize, you did take this
12 file, and you did indicate that you would return it.
13 And you believe that to have been in early July. Am
14 I right so far?
15 A. It was probably in early mid July,
16 somewhere around there, July 15th, something like
17 that. I don't recall exactly.
18 Q. And sometime later, August or September,
19 maybe, you simply left it outside the door of an
20 agent who worked for the woman that had given you the
21 file; is that correct?
22 A. Actually, it could have been October or
23 November. I don't remember. At some point in time,
24 I just-- I felt like that it was-- it had no meaning
25 to me, whatsoever, and it wasn't mine. And so I

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1 figured, well, I'd just go drop it off at this lady's
2 house. I was-- I took a walk that way. It was my--
3 the way I walked. And one day, I just dropped it
4 by.
5 Q. Now, what door did you leave it at?
6 A. The front door.
7 Q. Was there a screen door?
8 A. No. I just left it right sitting on the
9 kind of-- it's a house on stilts. I hope I left it
10 on the right house.
11 Q. It's a house on stilts?
12 A. Yes.
13 Q. And what's the address?
14 A. It's right at the end of the [DELETED]
15 I don't know the physical address exactly.
16 But I can describe to you the fact that there is a
17 yellow-- a large, yellow-- I think it's some kind of
18 container or other where you lead to the boat ramp.
19 And I remember her describing in great detail how she
20 had built the house and put a great deal of pride and
21 joy in building the house and so forth.
22 So I assumed it was the right house. I
23 mean, I knew it was the right house. I didn't know
24 her name, but I did know-- I assumed that it would go
25 back to Ruth Gordon.

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1 Q. Did you knock on the door to see if she
2 was there to give it to her?
3 A. No, I didn't. There was no one there.
4 I--
5 Q. How do you know there was no one there?
6 A. Well, I didn't see a car. The carport--
7 Q. Does that mean there wasn't anybody
8 there?
9 A. In your mind, at that particular time, it
10 was insignificant to me, and I still think it's
11 insignificant, and to the point that you're-- you
12 might say that it was thoughtless, but that's what I
13 did. I did not knock, as I recall. That's my best
14 recollection. I wasn't trying to--
15 Q. What did this lady look like?
16 A. Now, that, I cannot tell you at all. She
17 looked like a typical real estate agent, perhaps in
18 her mid 30s, perhaps in her 40s. I don't know. She
19 was married. She was a blonde. She might have been
20 a brunette. She might have been a red-head. She was
21 well-dressed, as real estate agents normally are.
22 She might have been on the lower end of the pool or
23 the higher end. I don't know. But she was just
24 working there.
25 Q. Where did she sit in the office?

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1 A. I have no idea.
2 Q. Where was your conversation with her?
3 A. By the window, near the front, as I
4 recall.
5 Q. And what occasion-- when was this
6 conversation? Why were you in the real estate
7 office?
8 A. I don't recall at-- you're asking me about
9 things that happened in 1994 and about something that
10 is totally insignificant to me, sir. And I can't
11 recall exactly what date it is I'm in the real estate
12 office talking to this lady.
13 Q. I'm not asking you that. What was the
14 occasion? Why were you there? You remember
15 distinctly having the conversation. I thought you
16 might remember what you were doing there.
17 A. I was standing.
18 Q. Why did you go to the real estate office?
19 A. At that particular time, I don't know. It
20 could have been on the date that the-- I walked in
21 with the file, without-- with the file. Walked out
22 with the file, so to speak.
23 Q. So you did return the file?
24 A. I returned it, but I didn't return it to
25 Century 21, as you know--

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1 Q. Well, actually you don't know--
2 A. And I talked to Ruth Gordon about this.
3 And I said what-- you know, she didn't seem to be
4 concerned. And I talked to Paul Dennis. But their
5 concern more was with the ethical problems of
6 someone-- a PI. I'm assuming that a private eye came
7 in and walked in. They didn't know who this man
8 was.
9 Q. Do you know whether or not the real estate
10 agency ever got your file back?
11 A. I have no idea and I haven't asked.
12 Q. Now--
13 A. I just assumed that they did.
14 Q. I asked some questions yesterday and I'm
15 not sure that I made this clear. When you said that
16 you had not done any work on behalf of Ardoin &
17 Tanet, I assume you meant by that you had not done
18 any work for the firm Ardoin & Tanet or for Ardoin
19 individually or for Tanet individually; is that
20 correct?
21 A. The question, please, again. Any work?
22 Q. You said yesterday that you had not
23 performed any work on behalf of Ardoin & Tanet. And
24 I assume you meant by that that you had not done any
25 work for the firm Ardoin & Tanet or for Ardoin

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1 individually or for Tanet individually; is that
2 correct?
3 A. I suppose that's correct. I was
4 consulting and-- if you asked me for a question, if
5 you asked me something, and I could answer it, I
6 would have answered it and-- for either Ardoin or
7 Tanet. It seemed to me that Tanet answered the phone
8 a couple of times and Ardoin answered the phone a
9 couple of other times. But I don't know who actually
10 was in charge.
11 Q. Well, my question is very simple. You
12 were available, but you never did any work for Ardoin
13 individually, did you?
14 A. I'm sorry. Would you repeat the
15 question?
16 Q. Yes. You say you were available to do
17 work, but you never did any work for Ardoin
18 individually, did you?
19 A. If I've answered that question--
20 Q. I'm asking it now.
21 MR. ROYALS:
22 I'm going to object to the form of the
23 question and I'll tell you why. Any work could be
24 being available. I think that's the confusion.
25 MR. SMITH:

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1 Q. You described yesterday that you were
2 available had you been called on, but that you
3 weren't called on, correct, by the firm of Ardoin &
4 Tanet?
5 A. I was not called upon.
6 Q. And I'm just trying to clarify. I asked
7 the question yesterday, in terms of the firm. I'm
8 simply trying to confirm now that you didn't do work,
9 not for the firm, but for one or the other of the
10 individuals.
11 A. You mean individually?
12 Q. Right.
13 A. No.
14 Q. Okay. And the same would be true of an
15 entity called the Asbestos Law Center; have you ever
16 heard of that?
17 A. Yes.
18 Q. Would the same answer--
19 A. Yes. The same answer would be so.
20 Q. Did I understand you earlier in the
21 deposition to say that you understood M&S to be an
22 entity that Mr. Scruggs used to purchase real
23 estate?
24 A. You understood correctly, yes.
25 Q. Do you know what M&S-- do you know if M&S

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1 stands for anything?
2 A. No, I don't. It stands for a-- do you
3 mean the initials?
4 Q. Yes.
5 A. No, I don't.
6 Q. When you wanted to contact M&S, would you
7 call Mr. Scruggs or Ms. Bosarge?
8 A. Ms. Bosarge.
9 Q. During this deposition, you have described
10 a \$100 to \$150 amount of money provided to you by Mr.
11 Scruggs. You've testified that he provided you
12 \$3,000 in cash. You've testified that he cosigned on
13 a \$10,000 loan, a \$12,000 loan, a \$22,000 loan, which
14 has now been paid off, and he cosigned on a \$6,000
15 loan and he's deeded to you a \$105,000 house. What
16 has Mr. Scruggs told you about why he wanted to help
17 you and why he did these things for you, if
18 anything?
19 A. Nothing.
20 Q. Not a thing?
21 A. Not that I can recall.
22 Q. So you recall no discussion with Mr.
23 Scruggs where he indicated to you why he was doing
24 all these things for you?
25 A. I can recall no discussion.

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1 (Off the record.)
2 MR. SMITH:
3 Q. Mr. Williams, you were introduced to Mr.
4 Scruggs by Don Barrett, correct?
5 A. Yes.
6 Q. Now, had you met Don Barrett before the
7 meeting at which you and-- at which he and Mr.
8 Scruggs met you at Irv's Deli?
9 A. No.
10 Q. Had you communicated with Mr. Barrett
11 prior to that time?
12 A. Yes.
13 Q. In what form?
14 A. I sent a fax to Mr. Barrett, to the best
15 of my knowledge, during the-- well, it must have been
16 January or February, somewhere in there.
17 Q. '94?
18 A. Of '94, yes.
19 Q. And why did you take it upon yourself to
20 fax Mr. Barrett-- from Kentucky; is that right?
21 A. From Kentucky is right. I took it upon
22 myself to fax Mr. Barrett because, one, he was a
23 native Mississippian; two, I was facing divorce;
24 three, I was looking for a job; four, I believed I
25 would be in Jackson sometime or other in the near

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1 future.
2 My mother also lived there in Jackson. I
3 knew that Lexington was not very far from there. I
4 was familiar with his work in the Horton case. I had
5 followed it. I admired him very much. I still do.
6 And I was in the vicinity on a later date.
7 Because of that facts and Mr. Barrett, the
8 nature of the-- the nature of the facts dealt with a
9 meeting. I specifically stated to Mr. Barrett, I
10 would like a meeting with you for purposes of
11 conversation, socially.
12 And he either faxed me or-- I don't recall
13 whether he faxed me. I think there was a telephone
14 conversation, maybe, in which we were concerned that
15 there was wire tapping on it, and Mr. Barrett had
16 been through that before. He had been shot at and he
17 explained that to me.
18 During the period of time that he was
19 trying his cases, he mentioned some of the things
20 that he had gone through. He basically sympathized
21 with me, I think.
22 And I said that I would be coming down to
23 Mississippi in the fax. He faxed back and said, come
24 on down. Let's have a drink. And the normal place
25 to go is-- in north Jackson is a place called Irv's

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1 Delicatessen, also known as the Old Time
2 Delicatessen, a coffee house and a very good
3 delicatessen.
4 And I had made plans to leave the state of
5 Kentucky because after two years of having bypass
6 surgery and not being able to get a job, I felt like
7 I could return to the State of Mississippi, get a job
8 in my own home state, which was either in Jackson--
9 my plans were to go to the Gulf Coast, and I had a
10 boat which was at my mother's house. I was going to
11 take the boat and have it repaired on the Gulf Coast,
12 and essentially, that was the communication, by fax.
13 I hope I answered all your questions there.
14 Q. Just one fax to him?
15 A. One fax.
16 Q. Did you have a fax machine?
17 A. I did not have a fax machine, but fax
18 machines were available to me through various
19 sources, such as-- I believe Kinko's was the place
20 that I faxed it. I'm not sure, but it was downtown,
21 I believe Kinko's downtown. It could have been on
22 Hersborne Avenue but I don't remember that. I lived
23 near Hersborne Avenue, but my recollection of where
24 that was faxed, I don't recall.
25 Q. How did you get his fax number?

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1 A. I made a phone call to the general
2 information in Lexington, Kentucky-- Lexington-- I
3 believe that's right, Lexington, Mississippi, which
4 is down the road from Jackson. I asked for the phone
5 number. I got the phone number through the
6 secretary-- I got the fax number through the
7 secretary.
8 Q. Was there a date set for the meeting in
9 this exchange of faxes?
10 A. No. There was not.
11 Q. When was your next communication with Mr.
12 Barrett?
13 A. I believe that I had a telephone
14 conversation with him sometime in between the time
15 that I actually faxed him and the time that I
16 actually arrived in Jackson, which would have been--
17 if I can do some figuring, here, on March 3rd, I was
18 deposed. On March 4th, I submitted my counterclaim.
19 You and Mr. Ballantine, I believe that was on the
20 3rd; is that correct?
21 Q. I don't recall.
22 A. Okay. I do. It's 1994, I believe, March
23 3rd. And on March the 4th was the counterclaim.
24 And the plan that I had in mind was to
25 leave shortly after the counterclaim because I was a

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1 little exhausted. It was a-- it was planned to go
2 down approximately on the 5th or the 6th. I don't
3 remember. But I was down there approximately on the
4 6th, the 5th or the 6th. It's a one-day drive. And
5 I met him either on that day or the next day, the
6 7th, somewhere around in there, shortly after I
7 arrived, I believe.
8 Q. Is this in March?
9 A. I said March 5th, 6th, 7th, somewhere in
10 there, 1994.
11 Q. Now, did you say that Mr.-- You did say, I
12 believe, that Mr. Barrett faxed you back. Where did
13 he fax you back at?
14 A. Where I was, Kinko's.
15 Q. So you just waited there for a response?
16 A. No. I asked-- I think the way the fax--
17 now that I think about-- I have had time to think
18 about it, I think the fax arrived, and then I picked
19 it up later on, the next day or sometime like that,
20 if it was Kinko's. I don't recall. There is another
21 place over there. I think it was Hersborne Avenue.
22 I'm not sure. I don't have a copy of it, so I can't
23 give you an idea.
24 Q. Now, did you call Mr. Barrett when you
25 arrived in Jackson?

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1 A. I called his office.
2 Q. All right.
3 A. And I called from my mother's home.
4 Q. Did you talk to him?
5 A. He called me back later.
6 Q. And what was the conversation?
7 A. That we would meet at Irv's Delicatessen.
8 Q. When; that night or later?
9 A. It would be in the late afternoon of that
10 same day. I don't remember whether it was the 6th or
11 the 7th. I was job hunting.
12 Q. And who was present when you went to Irv's
13 Deli?
14 A. The room was rather crowded. There were
15 quite a number of customers. The waiter, waitresses,
16 others were present. I believe that I was sitting in
17 one of the middle booths-- no, not a booth, but a
18 table. And I was there by myself for some time. I
19 don't remember how long. Maybe 30 minutes, an hour.
20 And presently, a man whom I had never seen
21 before walked through the door, and he looked like a
22 lawyer. And it was my impression that he was not
23 accompanied by anyone. He walked through the door.
24 And there are several entrances to Irv's. There's
25 the mall and then there is the outside entrance, et

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1 cetera. And he came through the entrance where you
2 pay, with the cashier's desk.
3 And we shook hands, set down and ordered--
4 I was drinking a dark beer. That's all I can
5 recall. And I think shortly thereafter, a Mr.-- What
6 I thought to be another man, a tall man came in, and
7 I think he came from another direction. I'm not
8 sure. And I really wasn't sure if he was sitting at
9 the same place because he was sitting at a separate
10 table. They were small tables. That's my
11 recollection. And there was a woman, a dark-haired
12 woman with him. I don't-- I don't know her name.
13 And I thought he was Mr. Skaggs. So those people
14 were present. I assume they were in the same party.
15 And later, I found out they were.
16 Q. And did Mr. Barrett introduce you to Mr.
17 Skaggs?
18 A. He introduced me at some point, but I felt
19 he was-- I was-- I felt his name was Skaggs. I
20 thought his name was Skaggs and I still did for a
21 long time. And I thought he was with the FBI or was
22 a tobacco person. I was very scared. I wasn't
23 really sure that this was Mr. Barrett, even.
24 But we sat down and we chatted. And I
25 don't think we ate anything, but we did-- I think Mr.

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1 Skaggs had coffee, and I don't know what the woman
2 had.
3 Q. What did you talk about with Mr. Scruggs
4 and Mr. Barrett and this woman?
5 A. Well, I-- to the best of my knowledge, we
6 were chatting about-- excuse the language-- but the
7 bastards in the tobacco industry, in a very informal
8 way. I had been somewhat badgered by the March 3rd
9 appearance with you and with Mr. Ballantine, or the
10 fact that Fox and I had been working overtime on the
11 4th to try to get a counterclaim, which was a
12 compulsory counterclaim, which was the anniversary of
13 my bypass. And I think we joked a lot about the tone
14 and temper and attitude of the lawyers in the tobacco
15 industry and how they behaved.
16 Q. What else did you talk about at this
17 meeting?
18 A. The general nastiness of the tobacco
19 industry and how they were-- how they were behaving,
20 and essentially, had treated me. I was a public
21 figure at the time.
22 Q. What other subjects were talked about
23 other than the behavior of the tobacco lawyers?
24 A. I think I talked about personally, on my
25 level, the fact that I was looking for a job in

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1 Jackson, Mississippi, and elsewhere. And that it was
2 very difficult for me to live in Kentucky. That I
3 had had a very hard time.
4 That I was probably going to be divorced.
5 I remember saying that I was on the verge of being
6 divorced because Sherrie had approached me in January
7 and February on the same matter. I told the
8 children, et cetera. There was a great deal of
9 sympathy about that.
10 And essentially, the matter turned to what
11 my qualifications were, in terms of teaching. And
12 although I was fairly well-known, in terms of the
13 press, Mr. Barrett was aware and I think he-- well, I
14 got the idea that he kind of thought of me as a hero,
15 and I think he said that. And that there was a great
16 deal of experience, in his past, where he had felt
17 oppressed, that he had lost a lot, that he had taken
18 on an industry by himself, and I admired him.
19 And I don't remember talking to Mr.
20 Skaggs, Mr. Scruggs at all during the conversation.
21 I was talking more with Mr. Barrett. Mr. Skaggs just
22 seemed to be sitting there listening. And that's why
23 I thought he was with the FBI or with the tobacco
24 company, for some reason or another. He was--
25 It was later learned, during the

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1 conversation, I understood that he was from the Gulf
2 Coast. My ideal has always been to return to where
3 my grandmother lived, to live in the Gulf Coast, and
4 I've spent quite a bit of time here.
5 And I mentioned that I had been looking
6 for jobs in Mississippi, and that I was failing, at
7 least in terms of the jobs that were available to me
8 in Kentucky. It's hard to go to Kentucky and be
9 called a thief, and to be called a person who steals
10 things, and then have your children come home to you
11 and then try to get a job outside. It's very
12 difficult.
13 Q. What conversation did you have with Mr.
14 Scruggs at Irv's Delicatessen?
15 A. As I said, very little conversation with
16 him. At one point, he interrupted and said, I know a
17 dean or he knows a college person on the Gulf Coast.
18 Or maybe it was Mr. Barrett, I don't remember, who
19 said this, do you know this person. And I think Mr.
20 Barrett said he knew someone in the college area.
21 And it was the time of year when you're
22 looking, if you're in looking for a job. And having
23 not taught in 11 years, I really had some liabilities
24 and I had to have somebody maybe who could help me in
25 some way or other. And he volunteered to do that.

1 He said, do you have your resume with
2 you? And I did. And I gave it to him. And I think
3 the substance of that conversation was basically it.
4 Q. Did he invite you to call on him if you
5 needed help on the Gulf Coast getting a job?
6 A. He took my resume with me. I think he
7 left approximately-- we left at approximately the
8 same time.
9 I was leaving. I was leaving for the Gulf
10 Coast. My mother had my boat, my Hunter 22. You
11 remember. You have a Hunter 23. My Hunter 22 was
12 next to the house at my mother's. And I was prepared
13 to take it down to the Gulf Coast to put it in the
14 yard. As a matter of fact, I had contacted
15 Covacevich's, and I had prepared to have them-- I
16 wanted to know how much it was and how long it would
17 be there, et cetera.
18 Q. The only question is, did Mr. Scruggs
19 indicate that you could call him if you needed
20 assistance on the Gulf Coast?
21 A. No. But there was the inference that he
22 was going to pass this resume along to the dean of
23 the college.
24 Q. Was there any discussion about working for
25 a law firm at that time?

1 A. There was. He said something to the
2 effect that perhaps you could be looking into law
3 firms, since you have been mistreated, so to speak,
4 in Kentucky, and we might be able to find a law firm
5 that would hire you here.
6 Q. What else did you discuss with--
7 A. That's about it.
8 Q. Is that everything you can remember?
9 A. That's the total conversation.
10 Q. Have you, since that meeting, learned who
11 this woman was that was with Mr. Barrett or Mr.
12 Scruggs?
13 A. No. You've asked me that a number of
14 times and I don't know who the woman was.
15 Q. Now, when was your next communication with
16 Don Barrett after the Irv's Deli meeting?
17 A. You've asked me that question, too, and
18 I'm trying to remember. It seems to me that there
19 was-- can I calculate here just a minute?
20 MR. SMITH:
21 Yes. While you calculate, let me state
22 that I would be asking questions with regard to
23 documents that may have been involved at this point,
24 but I am not because of the objection that has been
25 raised and our agreement that the witness will not

1 answer those questions.
2 MR. ROYALS:
3 I understand or agree or whatever I need
4 to do.
5 MR. SMITH:
6 Thank you.
7 A. I really can't recall the exact date, but
8 it was April 20th, something, maybe. Somewhere in
9 that area.
10 Q. Was this a phone call?
11 A. No. This was an actual-- I saw him, in
12 person.
13 Q. What was this meeting about?
14 A. It was a meeting with the Attorney General
15 of Mississippi present.
16 Q. Where was this meeting?
17 A. It was in Pascagoula.
18 Q. Where?
19 A. I believe they call it the Hearing Loss
20 Center.
21 Q. Was Mr. Scruggs present?
22 A. Yes.
23 Q. Who else was present?
24 A. That, I don't know.
25 Q. Were there others present?

1 A. I think there was one other present, but I
2 don't know who it was.
3 Q. What did he look like?
4 A. He might have been medium height, kind of
5 brown hair. I don't--
6 Q. Do you know a gentleman named Ron Motley?
7 A. No, I do not. You've asked me that
8 before.
9 Q. You don't know if that's who this person
10 was then?
11 A. No. I've seen pictures of that person.
12 It could have been, but I don't think it was.
13 Q. And what was-- how did this meeting get
14 arranged?
15 A. I think-- I don't know.
16 Q. Well, somebody called you up and invited
17 you. Who was that?
18 A. Well, at this point, I'm really concerned
19 because I feel like since I had a conversation with
20 the Attorney General of Mississippi that that is a
21 kind of privileged area. And I've said this before.
22 I may be wrong, but I feel very uncomfortable in
23 talking with you about what I might have said to the
24 Attorney General of Mississippi about the fraud or
25 some kind of thing like that in the tobacco

1 industry.
2 Q. The question is, who invited you to the
3 meeting?
4 A. I don't know who invited me to the
5 meeting. I don't remember who invited me to the
6 meeting.
7 Q. And the people present were Mr. Barrett,
8 Mr. Scruggs and a third person whom you do not know?
9 A. The third person, I don't know, but at
10 some point, it was on a-- I think it was on a Sunday
11 and the Attorney General of Mississippi was there at
12 some point in that-- I was not in the same meeting
13 room with them.
14 Q. How long did you-- how long were you-- how
15 long did you meet with any of those people?
16 A. I didn't really meet with them. I met
17 with the Attorney General of Mississippi.
18 Q. How long did you meet with him?
19 A. I don't think I ought to answer that
20 question. Can I get some advice on this? I really
21 feel very--
22 MR. ROYALS:
23 I think you can say how long you met with
24 him without going into any detail, approximately, if
25 you remember. I think you've said that in the other

1 deposition, haven't you?
2 A. I have not. Well, 20 minutes, sir,
3 somewhere along--
4 MR. SMITH:
5 And, again, at this point, I would be
6 asking questions that related to the documents, but
7 based on your representation that you won't let him
8 answer it, I'm not going to pursue that until we can
9 get that dealt with in the appropriate way.
10 MR. ROYALS:
11 Agreed.
12 MR. SMITH:
13 Q. What was your next conversation or meeting
14 with Mr. Barrett?
15 A. I didn't have one.
16 Q. That's it?
17 A. That's it.
18 Q. Now, the April 20 meeting, that was
19 after--
20 A. Approximately.
21 Q. Approximately. But it was after you went
22 to Orlando with Mr. Scruggs?
23 A. Have we established that we went to
24 Orlando?
25 Q. I'm asking, was it after you went to

1 Orlando with Mr. Scruggs?
 2 A. Yes.
 3 Q. You said earlier you didn't keep a copy of
 4 your fax to Mr. Barrett. Do you have a copy of Mr.
 5 Barrett's fax back to you?
 6 A. No, I don't.
 7 Q. What did the fax say?
 8 A. The wording was very simple. It said,
 9 come on down, something to that effect. Let's have a
 10 drink, social-- I made it very clear that I was
 11 having a social meeting. He made it very clear that
 12 he was having a social meeting, as well.
 13 Q. Why did you make it clear that you were
 14 just having a social meeting?
 15 A. Because of the injunction, and I was very
 16 close to-- the 3rd and the 4th were very difficult
 17 days on me.
 18 Q. I'm sorry?
 19 A. I said the 3rd and the 4th were very
 20 difficult days.
 21 Q. How did you make it clear that it was just
 22 socially?
 23 A. Well, I just said something to the effect
 24 that--
 25 MR. ROYALS:

1 The wording of the fax, would that be the
 2 answer? I'm sorry.
 3 MR. SMITH:
 4 It's okay. I don't mind.
 5 A. My mother had known his father, and I
 6 think I had something--
 7 Q. I just want to know, in the fax, you made
 8 some statement that made it clear that you simply
 9 wanted to have a social meeting.
 10 A. Yes. And if I can finish my statement,
 11 which was in the fax, this is the way I said it.
 12 Q. Go ahead.
 13 A. Mr. Barrett, my mother grew up with your
 14 father. They went to school together. I would
 15 like-- since every time I come down to Mississippi, I
 16 pass Oxford and I think of William Faulkner and Mr.
 17 Grisham, et cetera, and I pass Lexington and I think
 18 of you. I am coming to Mississippi sometime. I come
 19 to see Mississippi, I come to see my mother. I would
 20 like to sit down with you and have a drink. What do
 21 you think? Something to that effect. Purely social
 22 meeting. And I do believe I used the word social
 23 meeting.
 24 Q. Is Mr. Scruggs or M&S or anyone, to your
 25 knowledge, who is related to Mr. Scruggs paying any

1 expenses for you now other than your salary?
 2 A. No.
 3 Q. Has anyone else-- is anyone paying your
 4 attorneys fees, other than you?
 5 MR. ROYALS:
 6 That's attorney/client privilege. Object
 7 and instruct him not to answer.
 8 MR. SMITH:
 9 Is that privileged, who is paying?
 10 A. I accept the advice of counsel and will
 11 not answer the question.
 12 MR. ROYALS:
 13 If it's not, we'll give you the answer. I
 14 don't know if it is or not. I think it may be.
 15 MR. SMITH:
 16 Well, my next question would be, is
 17 someone paying Mr. DeMoisey on your behalf, and then
 18 I would ask is someone paying Mr. Royals on your
 19 behalf.
 20 Q. Is someone paying Mr. DeMoisey's attorneys
 21 fees?
 22 A. No. I don't know. Well, you see, we are
 23 dealing with Mr. DeMoisey and Allen Morrison. Allen
 24 Morrison is a public citizen. It is a public
 25 organization, et cetera, et cetera. He gets his own

1 money, et cetera.
 2 Q. Is Mr. Scruggs paying Mr. DeMoisey's
 3 attorney's fees?
 4 A. I do not think so.
 5 Q. Is Mr. Scruggs paying Mr. Royals'
 6 attorney's fees?
 7 A. I do not know.
 8 Q. Are you paying Mr. Royals' attorney's
 9 fees?
 10 A. Not yet.
 11 Q. Have you paid any?
 12 A. Not yet.
 13 Q. Have you been billed for any?
 14 A. Yes.
 15 Q. And do you know whether or not Mr. Royals
 16 has been paid by anyone?
 17 A. I do not know.
 18 Q. Has anyone committed to you or said to you
 19 that they would pay Mr. Royals on your behalf?
 20 A. I don't recall.
 21 Q. Do you know how Mr. Royals is going to get
 22 paid?
 23 A. Well, he may seize property. He may-- I
 24 don't know. He may come and take me and my first
 25 daughter. I don't know.

1 Q. You have no indication from any source,
 2 whatsoever, about someone paying--
 3 MR. ROYALS:
 4 Let's take a break, here. Let's go out
 5 and discuss this. Let's go.
 6 (Off the record.)
 7 MR. ROYALS:
 8 Just for the record, after the recess,
 9 I've made an objection to Mr. Williams answering
 10 questions about who is paying me on the privilege,
 11 attorney/client privilege, and we're sticking with
 12 that objection and instructing him not to answer the
 13 question.
 14 MR. SMITH:
 15 Q. Mr. Williams, did anyone at M&S suggest
 16 that you go out and find a house for M&S to
 17 purchase? Did anyone at M&S suggest that you go out
 18 and find a house for M&S to purchase?
 19 A. No. I can't recall that conversation.
 20 MR. SMITH:
 21 Those are all of the questions I have. We
 22 can adjourn the deposition now based on our
 23 statements, mutual statements with regard to issues
 24 that you feel need to be dealt with before you will
 25 allow the witness to answer additional questions.

1 With that understanding, we can adjourn the
 2 deposition.
 3 MR. ROYALS:
 4 Okay.
 5 EXAMINATION
 6 BY MR. CARROLL:
 7 Q. Mr. Williams, you were asked some
 8 questions this morning concerning conversation in
 9 which you said you conveyed to Dick Scruggs certain
 10 concerns that you had and history of treatment at the
 11 hands of Brown & Williamson. Do you recall that line
 12 of questioning?
 13 A. Yes, I do.
 14 Q. What specifically were you referring to
 15 when you were explaining what you told Mr. Scruggs
 16 about your treatment at the hands of Brown &
 17 Williamson?
 18 A. Well, specifically, relating to prior to
 19 coming down to Mississippi, at various points, I
 20 think, my family was put into jeopardy by phone calls
 21 that were made on various occasions from anonymous
 22 sources.
 23 And particularly one occasion, I remember
 24 a call which was to my children. And not to the
 25 extent that it threatened their lives, but it

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1 threatened their security and their schools. Their
 2 feeling about how they felt about their dad, who was
 3 being called a thief in the press, and they didn't
 4 know how to deal with it.
 5 Q. Who was calling you a thief in the press?
 6 A. Well, they were-- Mr. Ballantine was the
 7 first person who actually called me a thief. And a
 8 theft had occurred, and this was in October,
 9 September 29th, 1993. This was picked up
 10 subsequently by the press, and Brown & Williamson was
 11 interviewed on a number of occasions in the press
 12 during '93 and '94 concerning that issue.
 13 Q. Was this related to the removal of certain
 14 documents by you from Brown & Williamson's premises?
 15 A. Yes, it was, I assume. The purpose of--
 16 MR. SMITH:
 17 Are you going to let there be testimony
 18 from this side about documents but not from this
 19 side?
 20 MR. ROYALS:
 21 That question, I don't have any problem
 22 with that question. It wasn't related to documents.
 23 A. I was called a thief in the press
 24 principally because I was called a thief in the
 25 courtroom, and the courtroom took the attitude that

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1 this was a fair and a decent way to treat me, without
 2 answering-- being able to answer, through my
 3 attorney, for two and a half years approximately.
 4 Regardless of how it was viewed by this side or that
 5 side, we felt-- my attorneys felt that I could not
 6 answer questions from the press.
 7 My children felt the brunt of this, at
 8 school, and they were sort of isolated to a certain
 9 extent. They both went to a Catholic school. And
 10 they had psychological problems.
 11 I was worried that certainly during the
 12 summer of 1993, that I was going to be shot.
 13 Q. Why were you worried about that? What
 14 caused you that concern?
 15 A. Because of the affiliate law firms that
 16 Brown & Williamson had, not necessarily Wyatt,
 17 Tarrant & Combs, but Shook, Hardy & Bacon. I felt
 18 like Shook, Hardy & Bacon was perfectly capable of
 19 doing the job. Both Fox and I were worried, in terms
 20 of our families. We had insinuated threats from time
 21 to time. This is in '93.
 22 When it broke-- when the news broke--
 23 Q. Let me interrupt you and ask you-- excuse
 24 me for interrupting you, but let me ask you this. At
 25 that time, I take it you were involved in controversy

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1 with Brown & Williamson.
 2 A. Brown & Williamson joined the lawsuit only
 3 a day or so after Wyatt, Tarrant & Combs filed their
 4 injunction.
 5 Q. And did you have any legal disputes going
 6 on with any other entity at that time that would make
 7 you, perhaps, conclude that they were the ones that
 8 were causing you problems rather than Brown &
 9 Williamson?
 10 A. No. Brown & Williamson had a public
 11 relations campaign and they had the ability to
 12 produce public relations statements to the press, and
 13 they did so.
 14 Q. Did you have any contact-- and by you, I'm
 15 talking about you or your family-- during this period
 16 of time from any private investigators? Were you
 17 made to believe that you were being followed or could
 18 you--
 19 A. During that period of time, I was being
 20 followed. I was being pursued. I looked behind my
 21 back at every point, especially during the summer,
 22 when I was uncomfortable and not a public figure.
 23 After I became a public figure in
 24 September or the early part of October, the news
 25 broke, I felt a little bit more comfortable. But I

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1 would look behind my back and I would see someone,
 2 something.
 3 And I remember particularly being in the
 4 lobby of Sherrie's office building, and there were
 5 three gentlemen. And they were more or less
 6 following me. They were scouting me. And I left the
 7 building, walked away. And they had apparently
 8 followed me down into the vicinity where the kids
 9 were.
 10 The way the matter started, in terms of
 11 service of process was, particularly difficult for my
 12 children to live with on this-- On the 29th of
 13 September, when I was served, approximately 3:00 in
 14 the afternoon, pulled back some time here, in 1993,
 15 there were-- there was a man who arrived, according
 16 to the children, around 1:30 or 2:00 in the afternoon
 17 in a vehicle and began knocking on all of the doors
 18 around the house.
 19 We lived in a cul-de-sac. We had a very
 20 comfortable kind of house. A police captain lived
 21 next door to us, a lady-- very nice neighborhood
 22 lived next to us. And he knocked on every door--
 23 according to the children, he knocked on every door
 24 in the neighborhood and said, where is this man, and
 25 when is he coming home, and we want to know all about

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1 him, et cetera, et cetera.
 2 Well, my children-- my first child arrived
 3 coming back. I left-- I was at Sherrie's at the
 4 time, which was on Barstown Road. I left in a
 5 truck. I came and I got about a block down the road,
 6 which was about five blocks long, before we hit the
 7 cul-de-sac, and there was a sheriff's car or a man
 8 who was obviously identifiable as someone who was
 9 ready to identify me. And then I looked down the
 10 road. There was another one. And he was passing
 11 back and forth. And in all, I saw three cars, three
 12 cars.
 13 And when I got close to the house, to the
 14 part where I turned, both my children came running at
 15 me. And they were screaming and yelling and saying,
 16 dad, dad, that's-- something is going on. There is a
 17 man at this house. He's knocking on all the doors.
 18 And I says, now, wait. Don't be-- you know, take it
 19 easy. Don't be afraid. It's okay. They were
 20 children. And they were children.
 21 Q. Did this cause you apprehension?
 22 A. I think-- well, Sara, the youngest, was
 23 particularly frightened for me. I don't think she
 24 was frightened for herself. Maybe she was. Jennifer
 25 had just gotten home-- they came home about the same

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1 time, but one of them was in public school at the
 2 time and one was in Catholic school. One was
 3 finishing up Catholic school. And they were-- they
 4 wanted to follow me, but I told them to go off to,
 5 you know, somewhere else and there was-- they gave me
 6 the details.
 7 A man had come there. And Jennifer had
 8 been there for, I don't know, an hour. Well,
 9 actually an hour because she came home first, and the
 10 man had been sitting in the driveway or outside of
 11 the driveway, in the cul-de-sac. The neighbors
 12 were-- there were a couple of them that were looking
 13 around.
 14 And, you know, I tried to explain to the
 15 kids it was just service. But it was an abusive,
 16 horrendous and difficult and outrageous way of
 17 handling this, especially around these two children,
 18 and I will never forget that.
 19 Q. How long did this-- how long did this-- I
 20 believe you described it as harassment. Did this
 21 harassment continue until you came to Mississippi?
 22 A. That was the beginning. It was meant--
 23 MR. SMITH:
 24 Object to the form of the question.
 25 A. According to the testimony that was given,

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1 we would serve the-- we would serve, according to one
 2 of the gentlemen who was-- not to get off the point,
 3 but he was announced to the court as being my-- the
 4 man who was in charge of the project in which I
 5 worked. But I had never heard of him in my life, and
 6 he was-- he said he could be very judicious or very
 7 officious or very whatever, in terms of serving
 8 process. Well, he was. And that's when it started.
 9 And I think going back on that time
 10 period, the children began-- and they started to see
 11 a psychologist, there was a problem. I felt like--
 12 of course, I had had my bypass surgery. Sherrie had
 13 to deal with the fact that I didn't have a job. And
 14 then we had this on top of that. And Sherrie began
 15 to feel some vibrations, in terms of her board and
 16 from the activities that she was working in.
 17 And at Christmas, there was a call that
 18 came in, just shortly before-- have a merry Christmas
 19 from Brown & Williamson and Wyatt, Tarrant & Combs.
 20 We considered this a threat and we-- this was a few
 21 days before Christmas Eve. We considered it a threat
 22 and the office was closed. There were only a few
 23 people there. But everybody was scared.
 24 And during this time, I had called Ann
 25 Northrop, who was a Republican, who was a

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1 representative. And I remember she told me how they
 2 had treated her in the legislature. She had a child
 3 from-- well, she adopted a black child, and the good
 4 'ole boys in the legislature, in the tobacco
 5 business had squeezed her--
 6 MR. SMITH:
 7 Let me object to this as being so far
 8 field as to what somebody in the legislature did to a
 9 representative, and I think this is far beyond the
 10 scope of discovery in this case, and I would object
 11 to it, continuing with this.
 12 MR. CARROLL:
 13 Q. You can answer.
 14 A. I'll get to the point. She said she had
 15 received so many phone calls because she had opposed
 16 the tobacco industry, and that I was to expect this,
 17 and that some of it was to be considered serious and
 18 I would have to accept some of the things that
 19 happened.
 20 I guess I had no problem, so far as my own
 21 life, but my children were and did have a problem.
 22 At one point in time, Sara was on the school yard and
 23 someone came up to her and said, did you know that
 24 there is a hit man on your dad? And it's coming from
 25 the tobacco people. I had to deal with that.

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1 Sara came home, and she was crying and she
 2 said, dad, is somebody going to kill you? And I
 3 said, well, no, Sara. I don't think so. And I tried
 4 to explain, as long as I'm a public figure, that
 5 somebody is not going to kill me, but the feelings
 6 were still there and it was hard to explain to Sara.
 7 Sherrie, on the other hand, was getting a
 8 lot of pressure, more than she deserved. I didn't
 9 have a job. I felt like it was an impossibility to
 10 get a job where you were being called a thief. And
 11 this was regular. There were numerous career journal
 12 articles that came out. It wasn't alleged theft. It
 13 was the thief. The stolen documents. And in some
 14 occasions, it was even worse than that.
 15 In 1993, 1994 CEO Mr. Sandefur got in
 16 front of Congress, and at the bidding of Mr. Bill
 17 Paxton, who was from New York, who asked him on cue
 18 the question, how did this happen, and do you intend
 19 to prosecute this gentleman. I was sitting there
 20 watching with someone. And the answer was, well,
 21 this gentleman came in, this man we hired was hired
 22 as a paralegal. He came in and he came in in the
 23 middle-- on the last day of his work on or a weekend
 24 and he stole our documents. He was there for 11
 25 hours.

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1 And at the time, Judge Wine had still had
 2 his injunction, where we couldn't talk. We couldn't
 3 explain. And at every point, every turn, it was the
 4 same thing. In the Wall Street Journal, there was an
 5 article written by a Mr. Shapiro.
 6 My children were given a hard time at
 7 school.
 8 MR. ROYALS:
 9 How old were you kids at this time?
 10 THE WITNESS:
 11 Well, let me figure because Jennifer was
 12 in the 9th grade, and Sara was in the 10th grade at--
 13 when this started. Sara was in the 8th grade and
 14 Jennifer was in the 9th grade at the time it
 15 started.
 16 Now, at the point that I decided I had to
 17 leave Kentucky, I had to get out of Kentucky-- it was
 18 not necessarily to flee Kentucky. I know the
 19 complaint says flea. But that was not the point. It
 20 was that I was under the pressure of one day Sherrie
 21 came home and said, I can't take this any more. We
 22 are getting these phone calls. We are getting this
 23 kind of-- we are getting-- you know, my work is being
 24 jeopardized, et cetera, and you're not cleaning the
 25 house, and you're not getting a job, and therefore, I

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1 want a divorce.
 2 So I went downstairs. I told the children
 3 that we were going to get a divorce, and I was going
 4 to try to get a job and get a job in Mississippi.
 5 And that since they didn't have a relationship with
 6 their mother, this was going to be very difficult for
 7 them, and I knew it was.
 8 But I left-- and when I got all this
 9 information on that particular time, I got down
 10 here. And at the point I think that it became most
 11 oppressive, it was certainly after May 7th, when the
 12 Hills article appeared in the New York Times. I got
 13 all sorts of calls. I still receive threatening
 14 letters from California and all over the place.
 15 Q. Threatening letters about what?
 16 A. Well, the last one I received was that you
 17 don't deserve the Medal of Honor or something of that
 18 sort, and that if you ever come down here, we're
 19 going to do something to you, and don't ever come to
 20 California. I wasn't going to come to California, et
 21 cetera. But it was related to an article which
 22 appeared in the Los Angeles Times, I think.
 23 On one occasion, Brown & Williamson had
 24 kept under seal some information, and then had
 25 carefully prepared a public relations release, made

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1 the public relations release saying that I had taken
 2 the Fifth about 40 times, I think, the Fifth
 3 Amendment. And I had, under the advice of attorney,
 4 and I began to receive phone calls from the press
 5 saying, well, you know, what did you do, and, you
 6 know, so forth.
 7 So once again, I had to go before the
 8 camera and say, you know, this is my story, and
 9 within three minutes, I had to explain what-- why
 10 they had issued their public relations release.
 11 Brown & Williamson has constantly, over
 12 the period of time that I have had any problems with
 13 them, I supposedly fairly released these public
 14 relations tidbits and I have not been able to
 15 respond. I was not able to respond to the Wall
 16 Street Journal article in which Mr. Shapiro
 17 interviewed everybody. And-- except me, and
 18 certainly, my-- anybody whoever knew me. And--
 19 Q. Okay. Now, excuse me for interrupting
 20 you.
 21 A. There is one other point. Sara came down
 22 here in May of 1994. She was literally at the point
 23 of a nervous breakdown, and she spent a month with me
 24 because she wanted to protect me. I was living at--
 25 Q. All right. Now, let me ask you something,

<p>Page 361</p> <p>1 Mr. Williams, and then kind of get to the point of 2 the question. This morning, you testified about 3 things that you told Dick Scruggs when you were 4 trying to persuade him to purchase-- deed the house 5 to you. Do you remember that? 6 A. Yes. 7 Q. Are the things you've just described the 8 things that you were-- the types of things you were 9 telling Dick Scruggs? 10 A. Yes. 11 Q. All right. And you testified this morning 12 that-- you testified this morning, when you were 13 talking about where you were looking for, that you 14 were looking for a place where you wouldn't have to 15 contend with a drive-by shooting, I believe is the 16 word you used. Do you remember that answer? 17 A. That's correct. 18 Q. Is it fair to say that you were afraid for 19 your physical safety as a result of the things you've 20 described? 21 A. There is no question about it. I had had 22 one gunshot fired at me when I was down here at the-- 23 at the-- over in Ocean Springs. 24 Q. Was it in connection with any particular 25 incident?</p>	<p>Page 364</p> <p>1 seeing a licensed clinical social worker. And all of 2 these matters had to do with the stress of this 3 particular issue. Even prior to my-- prior to my 4 bypass surgery and prior to all of this, I had seen a 5 medical doctor and a therapist concerning the issues 6 that I was dealing with in Brown & Williamson, at 7 Wyatt, Tarrant & Combs. 8 And after I arrived here, I suppose the 9 worst time for me started in approximately November 10 of '94 and continued on. And I was on an 11 antidepressant pill for approximately-- on and off, 12 about a year. The antidepressant pill was prescribed 13 by my doctor here in coordination with the therapist, 14 here, particularly, because of anxiety and 15 depression. And I believe that my therapist relates 16 this to the incidents that have occurred during the 17 stress and due to Brown & Williamson, in particular. 18 Q. All right. Let me now hand you, if I 19 could, a document consisting of 152 pages titled, 20 Brown & Williamson Tobacco Corporation's Index of 21 Documents Withheld from Production Based on Claims of 22 Attorney/Client Privilege and/or Work Product 23 Doctrine Filed in this Cause. And I'll ask the court 24 reporter to mark it, please, as an exhibit. 25 (Exhibit 8 was marked.)</p>
<p>Page 362</p> <p>1 A. Not that I know of. I just-- I heard the 2 gunshot and I got out-- I got the hell out of the 3 way. 4 Q. And you conveyed all of this to Mr. 5 Scruggs during this conversation or he knew about 6 it? 7 A. I didn't-- I had been here for a while, 8 and the investigators came here in November or 9 October or September. I knew that King & Spalding 10 had sent some investigators down here. I had 11 notification, through a man whom I had dealings with, 12 through Island Wind. He informed me that he was 13 being-- that he wanted to be-- that this man had come 14 to him, asking him personal questions. 15 I had-- in that period of time, prior to 16 1995, and all the way up to, I guess, February of 17 that time, been under some kind of surveillance. And 18 it was going on. And my phone was tapped. I was 19 quite sure that it is and it may be still tapped. I 20 don't know. The-- or if there is some kind of 21 listening device. 22 I went through. I had the house swept by 23 a professional in order to see if there was 24 anything. There was nothing at the time. 25 But I do recall many times making two</p>	<p>Page 365</p> <p>1 MR. CARROLL: 2 Q. I'll refer you to Exhibit 8, and I will 3 ask you if you can look-- if you would look at that 4 document, please. Look through the documents and see 5 if you can recognize any of the documents. Could 6 you, if you looked through that privilege log, 7 recognize any of the documents? 8 A. I can recognize the first one. 9 MR. ROYALS: 10 I'm going to have to object to this. Jim, 11 I think this is the stuff that he is probably under 12 an injunction not to talk about, and so I will have 13 to instruct him at this point not to talk about those 14 documents until we get some clarification from some 15 court. 16 MR. CARROLL: 17 Is counsel for Brown & Williamson in 18 agreement with that? 19 MR. SMITH: 20 He can't talk about the contents of the 21 documents. 22 MR. CARROLL: 23 Let me just ask one or two questions and 24 then you all can make your record. 25 Q. Mr. Williams, with respect to the</p>
<p>Page 363</p> <p>1 right turns, and the car left, and I followed some-- 2 I was followed by an investigator on-- at least on my 3 side of the fence. And it seems to go on. 4 Q. Have you sought medical attention as a 5 result of the stress associated with these types of 6 events that you've described? 7 A. When I first came down here, I came and I 8 had no doctor, and my-- during the summer, my pulse 9 rate was close to 115. I had-- I had high blood 10 pressure, well over the acceptable levels. I was 11 still on medication, which I-- the other doctor in 12 Kentucky had given me. 13 And when I did reach the doctor here, I 14 was-- he made certain adjustments to my medication. 15 And then during the period of time that it became 16 very, very difficult to survive here with the 17 children, I got the divorce. 18 The divorce was an obvious thing that was 19 going to happen. And that happened in November of 20 '95. And-- '94, I'm sorry. And the children left. 21 And then I went on-- I went into a clinical 22 depression. I began to see a therapist early in 23 September of '94, and that therapist was here the 24 other day. And I've been seeing him ever since. 25 When I was in Louisville, I was also</p>	<p>Page 366</p> <p>1 documents that are shown on Exhibit 8, if I were to 2 ask you about some of those documents, could you tell 3 the court, from your own personal knowledge, whether 4 any of those documents were involved in crimes or 5 fraud committed by or on behalf of Brown & Williamson 6 Tobacco Corporation? 7 MR. SMITH: 8 Object to the form of the question in that 9 this man may be able to tell you what is in some of 10 these documents. This man cannot make the legal 11 conclusion about what they show or don't show. 12 A. I could. 13 MR. CARROLL: 14 Q. You could tell, from your own personal 15 knowledge, whether those documents or some of them 16 were evidence of crimes and illegal activity by and 17 on behalf of Brown & Williamson Corporation? 18 MR. SMITH: 19 Object to the form. 20 A. Sir, I could, yes, particularly-- I am 21 just picking one out here. 22 MR. SMITH: 23 Object to the witness testifying as to the 24 content of the documents. 25 MR. ROYALS:</p>

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1 Look, I've got to join in. You can't
2 testify as to the contents of any of these
3 documents.
4 We are just getting further and further
5 over into what he can't do here, Jim. Your question
6 is, could he conclude that some of these documents
7 involved the crimes of fraud. I am going to have to
8 object to that and instruct him not to answer.
9 MR. CARROLL:
10 Q. All right. You decline to answer based on
11 the advice of your attorney?
12 A. Yes.
13 MR. CARROLL:
14 All right. Could we then simply shorten
15 this by having an understanding that with respect to
16 all of the documents contained on Exhibit 8, if I
17 were to ask him any substantive questions concerning
18 what those documents reveal and whether or not they
19 showed evidence of crime or fraud, his answer would
20 be the same?
21 MR. ROYALS:
22 That's correct.
23 MR. CARROLL:
24 Q. Is that true, Mr. Williams?
25 A. I would assume that I could-- yes.

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1 Q. You would follow the advice of your
2 counsel and decline to answer?
3 A. Yes, I suppose. Yes.
4 MR. CARROLL:
5 Mark that order, please, in the Jefferson
6 Circuit Court, Division 10, Number 93-C14806, Robert
7 Maddox, et al, versus Merrell Williams as Exhibit 9,
8 please, ma'am.
9 (Exhibit 9 was marked.)
10 MR. CARROLL:
11 Dated November 27th, 1995.
12 MR. SMITH:
13 Let me state, for the record, that that
14 order is-- Well, go ahead and ask your question,
15 Jim. I'm sorry.
16 MR. ROYALS:
17 Are you going to bring up a point-- is
18 that the last modification?
19 MR. SMITH:
20 That's the last modification. That's not
21 the injunction.
22 MR. CARROLL:
23 Well, is it counsel's position, though,
24 that the injunction and that modification, which has
25 been marked as Exhibit 9, prohibit Mr. Williams from

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1 answering questions concerning the documents?
2 MR. ROYALS:
3 That's my position--
4 MR. CARROLL:
5 That are listed on Exhibit 8?
6 MR. ROYALS:
7 That is my position, yes.
8 MR. CARROLL:
9 Is that Brown & Williamson's position?
10 MR. SMITH:
11 The position is the injunction speaks for
12 itself. He is enjoined from talking about the
13 contents of the documents.
14 MR. CARROLL:
15 The documents on Exhibit 8?
16 MR. SMITH:
17 Those are some of them.
18 MR. CARROLL:
19 It won't, then, I take it, be necessary
20 for me to go through and ask him questions about each
21 one of these and have him decline to answer? We can
22 stand on the record that he would decline to answer
23 those questions?
24 MR. ROYALS:
25 That's right.

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1 MR. CARROLL:
2 Let's take a recess.
3 (Off the record.)
4 MR. CARROLL:
5 Let the record reflect that having been
6 unable to persuade counsel for Mr. Williams and
7 obviously counsel for Brown & Williamson to change
8 their position with respect to Exhibit 8 and the
9 documents that are at issue, we will recess our
10 questioning regarding those matters at this time
11 until there is a ruling by the court.
12 EXAMINATION
13 BY MR. SMITH:
14 Q. Mr. Williams, you've, in fact, described
15 yourself as a document thief, haven't you?
16 A. I don't recall that.
17 Q. Well, didn't you tell Richard Libey,
18 quote, "Three people live in this house; two of them
19 are dogs and one of them is a document thief," close
20 quote?
21 A. What is the date of that document?
22 Q. This is an article in The Washington Post,
23 June 23, 1996.
24 A. Would that have been this year?
25 Q. I stated the date.

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1 A. June 20, '96. And read the article again,
2 please?
3 Q. Quote, "Three people live in this house;
4 two of them are dogs and one of them is a document
5 thief."
6 A. One of the dogs?
7 Q. Is that a correct quote?
8 A. I don't know. That's Mr. Libey's writing.
9 Q. Yes. But it's a quote attributed to you.
10 Did you say that to him or is he wrongly quoting
11 you?
12 A. You may have to ask him.
13 Q. Do you remember stating that?
14 A. I do not recall it.
15 Q. Did you read this article?
16 A. May I see it?
17 Q. I'll mark the quote for you.
18 A. No. I don't think I did.
19 Q. Did you read the article?
20 A. Did I read the article?
21 Q. Right.
22 A. Yes. This is by Richard Libey, three
23 years after you filed your injunction.
24 Q. You read the article shortly after it came
25 out, right?

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1 A. Yes.
2 Q. Did you tell Mr. Libey that he had
3 misquoted you and stated something false in his
4 article about you?
5 A. I have not had a conversation with Mr.
6 Libey since he left sometime before he came.
7 Q. All right. So you didn't tell him that
8 you were misquoted and he had stated something in
9 there that was not true?
10 A. I have not had a conversation with him.
11 Q. Thank you. You're not aware of any action
12 taken by Shook, Hardy & Bacon that would be a threat
13 to anyone's physical well-being, are you?
14 A. Yes, sir, I am.
15 Q. What is that?
16 A. I can't tell you.
17 Q. You can't tell me?
18 MR. ROYALS:
19 Was it Shook, Hardy & Bacon?
20 MR. SMITH:
21 Q. Right. Is that because it was in the
22 documents that you looked at?
23 MR. ROYALS:
24 I'm completely at a loss, here. I don't
25 know what we are talking about. Let's go out--

1 A. It would have to do with the documents,
2 yes.
3 MR. SMITH:
4 Q. Are you aware of any actions taken by
5 Shook, Hardy & Bacon with regard to you?
6 A. No one left a card on my door.
7 Q. What, now? Say that again?
8 A. No one left a card on my door.
9 Q. Can you answer that yes or no? Are you
10 aware of any actions taken by Shook, Hardy & Bacon
11 with regard to you?
12 A. Excuse me.
13 Q. Oh, am I getting too close to you?
14 A. If you don't mind, please.
15 MR. ROYALS:
16 Let me suggest to you, Merrell, you can
17 answer that yes or no and then explain your answer if
18 you want to.
19 A. Repeat the question, please.
20 MR. SMITH:
21 Q. Are you aware of any actions taken with
22 regard to you by Shook, Hardy & Bacon?
23 A. Overtly?
24 Q. Are you aware of any actions taken by
25 Shook, Hardy & Bacon with regard to you?

1 that I have mentioned it to a Mr. Myron Levin, of The
2 LA Times.
3 Q. Did you call Mr. Scruggs and tell him that
4 this had happened right after it happened or at all?
5 A. He was aware of it. I don't know exactly
6 whether or not I called him. I don't think I was
7 able to call him or not.
8 Q. You didn't-- you've never talked to him,
9 personally, about that incident, have you?
10 A. Yes, I have. I think I've mentioned it to
11 him.
12 Q. When? How long after the incident?
13 A. I don't recall.
14 Q. Well, did you call anybody the night that
15 it happened and tell them about it?
16 A. It was in the daytime.
17 Q. Did you call anybody that day or that
18 night and tell them what had happened?
19 A. I don't recall anybody, other than I might
20 have mentioned it to Sherrie.
21 Q. You might have. Mr. Williams, you had
22 been shot at by a sniper in the woods, you thought.
23 You didn't call the police. You didn't call Mr.
24 Scruggs. You might have mentioned it to your wife,
25 Sherrie. Wasn't this a major event that you reacted

1 A. Do you mean do I know if they shot at me?
2 Q. No. I want to know if you're aware that
3 they took any action with regard to you. Yes or no?
4 A. I don't know who shot at me.
5 Q. All right. You don't know that anybody
6 shot at you, do you?
7 A. Yes, sir, I do.
8 Q. You heard a shot, didn't you?
9 A. I did.
10 Q. And you don't know who shot, who pulled
11 the trigger, do you?
12 A. No. But I don't know who killed Kennedy,
13 either.
14 Q. You don't know that they weren't shooting
15 at a squirrel in a tree, do you?
16 A. It came pretty close to me.
17 Q. Well, you don't know that anybody was
18 shooting at you, though, do you? You don't know what
19 they were shooting at?
20 A. It's pretty hard, when you're on the Ocean
21 Springs track, to believe they were shooting at a
22 squirrel.
23 Q. You heard a shot. Did you see where the
24 bullet hit?
25 A. It's hard to find a bullet.

1 to and did something about?
2 A. Well, what exactly can you do? What could
3 I do?
4 Q. Did you do anything?
5 A. I wasn't hit.
6 Q. Did you do anything?
7 A. I left.
8 Q. Okay. When did this occur?
9 A. It was approximately the time that your
10 investigators were here, sometime in October,
11 November of 1994. It could have been December, but I
12 don't think it was. It might not have been Shook,
13 Hardy & Bacon. It could have been King & Spalding,
14 for that matter, since it was your investigators.
15 I'm speculating. They didn't leave a card.
16 Q. Well, who is the first person that you
17 mentioned this to after it happened?
18 A. There wasn't anyone around.
19 Q. Who is the first person you said anything
20 to about this after it happened?
21 A. I believe my children were there, so I
22 didn't want to say anything to them.
23 Q. Who is the first person you said anything
24 to about this after it happened?
25 A. Peter Herring, I believe.

1 Q. Do you know where it hit?
2 A. It came close to my head.
3 Q. How do you know that?
4 A. I felt it.
5 Q. You felt the bullet go by?
6 A. I felt a whiz.
7 Q. Do you know which direction it was going
8 in?
9 A. Coming from the forest, where the national
10 forest is, right across the street.
11 Q. Okay. And did you go-- Do you know where
12 the bullet hit? Did you hear it hit?
13 A. No. I left the track immediately.
14 Q. Okay. But it's your testimony that you
15 felt the air of the bullet go by your head?
16 A. I did.
17 Q. Was anybody else on the track?
18 A. No.
19 Q. No other witnesses to this?
20 A. No. There was nobody on the track.
21 Q. Did you report this incident to the
22 police?
23 A. No, I did not.
24 Q. Did you report it to anyone?
25 A. I have mentioned it before, and I think

1 Q. And how long after it happened did you
2 mention it to Mr. Herring?
3 A. Next appointment.
4 Q. Your next regularly scheduled
5 appointment?
6 A. Yes.
7 Q. How long would that have been?
8 A. It probably was-- I don't remember. In
9 September, we were meeting fairly regularly. I was
10 fairly traumatized. I don't remember whether it was
11 November. We had one-- at one time a week or twice a
12 week. There was a point where we were meeting twice
13 a week or-- and then there was a point where we were
14 meeting twice a month.
15 Q. Who was the next person you said anything
16 to about being shot at?
17 A. I don't recall that.
18 Q. You don't recall? Did you tell it to
19 anybody within a week of when it happened?
20 A. You don't walk around telling people that
21 you've been shot at. I've told Fox that.
22 Q. You told Fox?
23 A. Yes.
24 Q. How long after the occurrence?
25 A. I don't remember. Pretty soon after.

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1 Q. Within weeks, months?
2 A. Right after it happened, I think.
3 Q. Did he-- How often did you run at the
4 track?
5 A. I didn't run. I walked.
6 Q. How often did you walk at the track?
7 A. Every day.
8 Q. Did you continue to walk at the track
9 after that?
10 A. Well, there was a respite, but I did
11 continue, but I made sure that other people were
12 there. There were times when-- I mean, as long as
13 there was somebody there, I didn't feel
14 uncomfortable. I walked regularly, always, simply
15 because I had problems with my calves. I couldn't
16 walk on the pavement. I walked at the Ocean
17 Springs--
18 Q. Okay. You had indicated you thought your
19 phone may have been tapped, but you-- you've had it
20 checked, right? And when you had it checked, there
21 weren't any taps?
22 A. I checked it after-- you filed your
23 lawsuit in 1995, and the house was swept. There was
24 nothing there. And, obviously, anything that was
25 investigated in November would have already been

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1 removed.
2 Q. You have absolutely no evidence that your
3 phone, in fact, was ever tapped, do you?
4 A. No. But my apartment was broken into
5 sometime in-- when I was living in 3220 Cumberland
6 Lane, at the Fort Bayou Apartments.
7 Q. And how was it-- how was entry made?
8 A. Open the door.
9 Q. Was the door unlocked?
10 A. No. It was just a very simple way of
11 getting in.
12 Q. The door--
13 A. A nonprofessional could get in, but a
14 professional could get in.
15 Q. The door was forced open?
16 A. Yes.
17 Q. Was anything taken?
18 A. No. But I knew someone was there.
19 Q. How do you know that?
20 A. Well, things were moved around.
21 Q. And you have no idea who did that, do
22 you?
23 A. I suspect, quite frankly, that it had
24 something to do with people with whom I had some form
25 of litigation going.

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1 Q. But you have no-- you have no evidence of
2 that. That's your suspicion. It's speculation,
3 isn't it?
4 A. I think it's pretty good speculation.
5 Q. Now, did you make a police report about
6 this break-in?
7 A. No, I didn't.
8 Q. Was the door damaged?
9 A. The door was not damaged. It was sort of
10 like you could push it in. There weren't any extra
11 locks on it.
12 Q. Well, did it require somebody to pick the
13 lock?
14 A. I don't think it required anything but a
15 credit card.
16 Q. The only reason you know there was a
17 break-in is you recall some things being in different
18 places?
19 A. Yes.
20 Q. Did you report this break-in to the
21 apartment manager?
22 A. Of course not.
23 Q. Did you tell anybody else that your
24 apartment had been broken into?
25 A. I really didn't want anybody to know I was

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1 there.
2 Q. Did Richard Libey attend a therapy session
3 with you and your therapist, doctor-- is it Herring?
4 A. He's not a doctor. It is Peter Herring.
5 Q. Did Mr. Libey attend a session with your--
6 A. Yes. He sat in.
7 MR. SMITH:
8 I have nothing further.
9 MR. CARROLL:
10 Let me just make one statement for the
11 record. I think we probably need to get this out on
12 the table right now. I mentioned this to you a
13 little bit, George, beforehand. But let me say
14 this. We are going to attend the deposition on
15 behalf of the defendants that we represent that are
16 scheduled for tomorrow, but I want to state on the
17 record that it is our position and we are going to
18 properly present it to the court that it is
19 absolutely ludicrous and absurd for me to be expected
20 to defend my clients in a lawsuit that centers on
21 certain documents that are-- that the witnesses that
22 we want to question about those documents, at least
23 one material witness, certainly the central witness
24 in this case is prohibited from discussing by an
25 injunction, a Kentucky injunction sought and obtained

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1 and maintained at the hands-- by and at the hands of
2 Brown & Williamson Tobacco Corporation.
3 If Brown & Williamson wants to pursue our
4 clients on the basis of matters related to these
5 documents and if we are going to be called upon to
6 defend them, then something is going to have to be
7 done about this Kentucky injunction. And we are not
8 going to continue to participate in farcical
9 depositions where we cannot even defend our clients
10 because we can't ask questions related to the claimed
11 privileged nature of those documents, and can't even
12 get answers from a central figure because he's
13 prohibited by a Kentucky state court injunction
14 obtained by Brown & Williamson.
15 Not fussing at you all. I'm just telling
16 you, that's going to be our position. And we are
17 going to go to the deposition tomorrow because it's
18 set, but we are going to object to any further
19 discovery, subject to our researching it and taking a
20 look at it. We are going to object to any further
21 discovery, depositions or otherwise, where we have to
22 go in with one hand tied behind our back attempting
23 to defend our clients whose claim of depriving of
24 these documents is directly related to the nature of
25 them and whether the crime fraud exception applies.

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1 So I didn't mean to be making a speech,
2 but I want to put you all on notice that that's going
3 to be our position so you don't think we come up and
4 ambush you with it down the road. We are going to
5 have to let the Mississippi court, where this case is
6 being tried, decide whether it's going to be bound by
7 a Kentucky injunction and whether we are going to be
8 allowed-- be forced to an unfair disadvantage in
9 attempting to defend our clients by that situation.
10 MR. SMITH:
11 Jim, I'm not going to make a speech. I'm
12 going to make a very short statement. You and I
13 disagree about what this lawsuit is about and we will
14 for some time to come.
15 I will simply ask that since Mr. Scruggs'
16 deposition has been noticed for October 2nd and 3rd,
17 that you promptly file whatever motion you're going
18 to file because we very much want to have a ruling
19 before that date so we can proceed with this case
20 expeditiously. We want to move this case. And if
21 there is an issue to be decided, let's get it
22 decided.
23 MR. CARROLL:
24 I understand what your position is, and we
25 are not going to resolve this on the record and I

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1 wasn't going to get into a fight with you. I just
2 wanted to put you all on notice of our position
3 because it is going to take us a couple three days to
4 get that motion filed.
5 MR. SMITH:
6 We simply ask you to do it as quickly as
7 possible. We will seek a ruling from the judge
8 because we want to go forward with the deposition of
9 Mr. Scruggs on October the 2nd.
10 MR. HEWES:
11 For the record, you had indicated to me
12 that your motion already had been dictated and all
13 you were waiting for was the transcript of this
14 deposition here, and as I understand it from Monica,
15 that will be available, like, maybe tomorrow.
16 MR. CARROLL:
17 Well, that's all true, but this isn't the
18 only lawsuit I'm involved in either. So I can't just
19 say that we are going to move right from the receipt
20 of the deposition into dictating a motion. I will do
21 it as quick as I can. That's the whole purpose of
22 announcing this to you.
23 MR. HEWES:
24 We don't want to receive your motion on
25 the 1st of October when the deposition is scheduled

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1 for the 2nd.
2 MR. CARROLL:
3 We certainly won't behave in that manner.
4 But at the same time, understand that our timing
5 can't be dictated by our distinguished colleagues on
6 the other side.
7 (Deposition concluded.)
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1 CERTIFICATE OF COURT REPORTER
2 I, MONICA SCHROEDER, Court Reporter and Notary
3 Public, in and for the County of Jackson, State of
4 Mississippi, hereby certify that the foregoing pages,
5 and including this page, contain a true and correct
6 transcript of the testimony of the witness, as taken
7 by me at the time and place heretofore stated, and
8 later reduced to typewritten form by computer-aided
9 transcription under my supervision, to the best of my
10 skill and ability.
11 I further certify that I placed the witness
12 under oath to truthfully answer all questions in this
13 matter under the authority vested in me by the State
14 of Mississippi.
15 I further certify that I am not in the employ
16 of, or related to, any counsel or party in this
17 matter, and have no interest, monetary or otherwise,
18 in the final outcome of the proceedings.
19 Witness my signature and seal, this the
20 day of _____, 1996.
21
22
23
24
25

Monica Schroeder, CSR, #1285

My Commission Expires June 12, 1999

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1 ERRATA SHEET
2 I, MERRELL WILLIAMS do solemnly swear that
3 I have read the foregoing 186 pages and that the same
4 is a true and correct transcript of the testimony
5 given by me at the time and place heretofore set
6 forth, with the following corrections:

Page: Line: Correction:

16 MERRELL WILLIAMS
17 NOTARIZATION

18 I, _____, notary public
19 for the State of Mississippi,
20 County, do hereby certify that Merrell Williams
21 personally appeared before me this _____ day of
22 _____, 1996, at _____, Mississippi.
23 My Commission Expires: _____
24 (NOTARY PUBLIC)
25